

SENATE RESOURCE AND ENVIRONMENT COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2005 Legislative Session

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Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.02 - RULES GOVERNING PUBLIC SAFETY

DOCKET NO. 13-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-103, 36-104(b) and 36-412 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule clarified that the Hunter Education Program Requirements may be completed through classroom study, home study, or an on-line computer course, and that the Hunter Education Program will be managed by the Department of Fish and Game.

There are no changes to the pending rule. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 241 and 242.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is January 26, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-103, 36-104(b) and 36-412, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Public Safety**Docket No. 13-0102-0401**
PENDING RULE

agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To clarify that the Hunter Education Program Requirements may be completed through classroom study, home study, or an on-line computer course, and that the Hunter Education Program will be managed by the Department of Fish and Game.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunter education students and to the hunter education program.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to continue the program without interruption, and the lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ron Fritz (208) 287-2884.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
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Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Public Safety

Docket No. 13-0102-0401
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

100. HUNTER EDUCATION.

01. Mandatory Hunter Education Program. All students being certified under this program must have successfully completed at least ten (10) hours of instruction in firearms safety, wildlife management, wildlife law, hunter ethics, first aid/survival, plus practical experience in the handling and shooting of firearms. This instruction may be completed through classroom study, home study, an on-line computer course, or other approved methods. The Department of Fish and Game shall manage the Hunter Education Program pursuant to the Idaho Hunter Education Policy and Procedure Manual. ~~(7-1-93)~~(1-26-04)T

02. Fees. A fee as established by Section 36-412(c), Idaho Code, shall be charged each student enrolling in the Hunter Education Program. (3-20-04)

03. Parent to Attend Live Fire Exercise With Student. For students under the age of twelve (12), a parent, legal guardian or other adult designated by the parent or legal guardian shall attend the Hunter Education Live Fire Exercise with the student. Preferably, the adult attending the live fire exercise should be the same adult who will accompany the student into the field while hunting. This requirement is mandatory for successful completion of the Hunter Education Course. (3-20-04)

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.04 - RULES GOVERNING LICENSING

DOCKET NO. 13-0104-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b), 36-301 and 36-401 through 36-412, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule would allow for the filing of a nonresident license refund request within one year of the death of a licensee or immediate family, and extend the military personnel refund or raincheck rule for the 2004 season. The proposed rule set the nonresident deer and elk tag quotas.

The pending rule has been amended to correct a clerical error in the number of deer tags. The change that was proposed to reduce the number of deer tags in Subsection 600.01.a. has been deleted, and this subsection has been returned to its original language.

The pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only the section that has changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 243 through 247.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is March 26, 2004.

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Licensing**Docket No. 13-0104-0401**
PENDING RULE

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 36-104(b), 36-301, and 36-401 through -412, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allow for the filing of a nonresident license refund request within one year of the death of a licensee or immediate family, and extend the military personnel refund or raincheck rule for the 2004 season. Set the nonresident deer and elk tag quotas.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to license buyers and hunters, and allows license sales to continue uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for license sales to continue uninterrupted, and the need to publish the Season Proclamation Brochures.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Craig Wiedmeier (208) 287-2804.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing Licensing

Docket No. 13-0104-0401
PENDING RULE

Natural Resources Division/Fish and Game
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

600. NONRESIDENT DEER AND ELK TAG QUOTAS.

01. Tag Quotas. The following number of deer tags and elk tags shall be set aside annually and reserved for sale to nonresidents: (3-20-97)

- a. Twelve thousand ~~four~~ eight hundred (12,~~4~~800) regular or Clearwater deer tags; (3-26-04)F()
- b. Twelve thousand eight hundred fifteen (12,815) A or B elk tags for all zones; (3-20-04)
- c. One thousand two hundred (1,200) S.E. Idaho area Deer tags. (7-1-98)

02. Exceptions. Sales of nonresident deer and elk tags to the following persons shall not be counted in the quota: (7-1-93)

- a. Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. (7-1-93)
- b. Designated Buyers: Nonresident tag buyers who return their unused nonresident deer or elk tag and a notarized affidavit stating that the tag buyer has not hunted may designate another nonresident to purchase an additional tag. If the original buyer does not make a designation and has retained an outfitter or guide, the outfitter or guide may make the designation. The designated buyer must pay the regular fee for the replacement tag. If no designation is made by either the original buyer or the outfitter or guide, the Department may sell the replacement tag on a first-come, first-serve basis. (7-1-93)

c. Successful nonresident controlled hunt applicants who have not purchased a tag as of the date of the controlled hunt drawing. (7-1-93)

- d. Junior mentored tag holders. (3-20-04)

03. Refunds. The fee for any nonresident license (as defined in I.C. 36-202(z)) shall not be refunded for any reason except as follows. (7-1-98)

- a. Hunting license and general season deer and elk tag refunds due to death, illness/

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PENDING RULE

injury or military deployment of licensee. Non-resident general season deer or elk tag fees and prerequisite hunting license fee and controlled hunt deer and elk tag fees may be refunded for death of licensee; illness or injury of licensee which totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict. Refund must be substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or other similar substantiating documents. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license less all issuance fees and a fifty dollar (\$50) processing fee. The refund request must be postmarked on or before December 31 of the calendar year in which the license and tags were valid. ~~(7-1-98)~~(3-26-04)T

b. General season and controlled hunt deer and elk tag refunds for other than death, illness/injury, or military deployment of licensee. Non-resident general season and controlled hunt deer or elk tag fees may be refunded for any reason other than death of the licensee; illness or injury of licensee which totally disables the licensee for the entire length of all applicable seasons; or military deployment of licensee due to an armed conflict. The request for the refund must be postmarked in the year in which the tag is valid. The hunting license fee will not be refunded. The refund will be based on the following sliding scale as a percent of the deer or elk tag fee.

Postmarked	Percent of Fee Refunded
Before April 1	75%
in April through June	50%
in July and August	25%
September through December	0%

~~(7-1-98)~~(3-26-04)T

c. Department Error. The department determines that a department employee made an error in the issuance of the license. (7-1-98)

d. Submission Requirements. All refund requests must be in writing and be accompanied with the original copy of the license or tag. (7-1-98)

e. Effective. These changes will be effective with the 1997 licenses and tags. (7-1-98)

04. Sale of Unsold Nonresident Deer and Elk Tags to Residents. Any unsold nonresident deer or elk tags may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price, beginning September 1. All privileges and restrictions associated with the use of the nonresident deer or elk tag will apply equally to residents who purchase a nonresident deer or elk tag. (3-15-02)

05. S.E. Idaho License/Tag Application and Drawing. (3-20-04)

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**Docket No. 13-0104-0401
PENDING RULE**

- a.** Nonresidents must submit application to the Idaho Department of Fish and Game headquarters license section to be eligible to receive an Idaho S.E. deer tag. The application period will be for the two (2) consecutive months from December 1 through January 31, and received by the license section no later than February 5 for the current year's license. The Idaho Department of Fish and Game is not responsible for lost or late applications. (3-20-04)
- b.** Applications must be submitted on a department-approved form. (3-20-04)
- c.** Only those eligible to purchase an Idaho hunting license at the time of application are eligible to apply for the S.E. deer tag. (3-20-04)
- d.** A nonrefundable application fee of six dollars and fifty cents (\$6.50) must be submitted with the application. (3-20-04)
- e.** At the time of application, the applicant must submit the nonrefundable application fee, the hunting license fees (if applicable), and the fees for the S.E. deer tag. Those successful in the drawing will receive the appropriate hunting license (if applicable) and the S.E. deer tag. Those who are unsuccessful will receive a refund of the license fee (if applicable) and the S.E. deer tag fees. (3-20-04)
- f.** Group applications may be submitted. A group application may consist of up to four (4) individuals. All required information must be submitted in the same envelope to be considered as a group application. If a group application is selected in the random drawing, then each applicant will receive a hunting license (if applicable) and a S.E. deer tag. (3-20-04)
- g.** Applications received after the deadline will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded. (3-20-04)
- h.** Applications with insufficient fees will be processed through the drawing but will be ineligible to draw. The appropriate license and tag fees will be refunded (if applicable). (3-20-04)
- i.** Computer drawing: To ensure fairness to all applicants, the drawing will be conducted using the existing department controlled hunt drawing processes. A random computer selection will determine successful applicants. If the applicant is successful, the license (if applicable) and deer tag will be issued and mailed to the customer within fifteen (15) days of the drawing date. License (if applicable) and tag fees will be refunded to unsuccessful applicants in the form of a state warrant. All refunds will be issued in the name of the applicant, regardless of who submitted the original payment for the application. (3-20-04)
- j.** Those applying for the S.E. deer tag will not affect their ability to apply for controlled hunts. (3-20-04)
- k.** Those unsuccessful in drawing a S.E. deer tag will be placed on a waiting list randomly in case the department receives returned unused tags for refunds or controlled hunt exchanges. These tags will be sold to the individuals on the list in order of standing on the waiting list. (3-20-04)

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PENDING RULE

1. All other existing refund rules apply to those who have successfully drawn and have been issued the S.E. Idaho deer tag. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

602. SPECIAL OPERATION IRAQI FREEDOM REFUND AND RAIN CHECK.

01. **2003~~4~~ Special Refund and Rain Check Rule.** This special refund and rain check rule applies only to the 2003~~4~~ hunting season. Because of military deployment to Operation Iraqi Freedom, some hunters will be unable to hunt big game animals for which they purchased tags in the state of Idaho. ~~(3-20-04)~~(3-26-04)T

02. **2004~~5~~ Special Refund and Rain Check Eligibility.** Hunters who have purchased tags and who can show in good faith they could not participate in hunting activities due to military deployment for Operation Iraqi Freedom will be eligible for a refund or rain check for license and tags for the 2004~~5~~ hunting season as outlined in this rule. ~~(3-20-04)~~(3-26-04)T

03. **General Season Tag.** Holders of a general season tag for deer or elk may request: (3-20-04)

a. A refund of the hunting license and tag fee; (3-20-04)

b. A rain check for a hunting license and same tag for the 2004~~5~~ hunting season; or ~~(3-20-04)~~(3-26-04)T

c. An exchange in 2003~~4~~ for a tag in another zone or area so long as tags are available in that area or zone. ~~(3-20-04)~~(3-26-04)T

04. **Controlled Hunt Permit and Tag.** Holders of a controlled hunt permit and tag for deer, elk, or antelope may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and tag fee; (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and tag for the same controlled hunt in the 2004~~5~~ hunting season; or ~~(3-20-04)~~(3-26-04)T

c. An exchange in 2003~~4~~ for a hunting license and a general season tag in another zone or area so long as tags are available in that area or zone. ~~(3-20-04)~~(3-26-04)T

05. **Nonresident Bear or Mountain Lion Tags.** Holders of nonresident bear or mountain lion tags may request: (3-20-04)

a. A refund of the hunting license and tag fee; or (3-20-04)

b. A rain check for a hunting license and tag for the 2004~~5~~ hunting season.

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DEPARTMENT OF FISH AND GAME
Rules Governing Licensing

Docket No. 13-0104-0401
PENDING RULE

~~(3-20-04)~~(3-26-04)T

06. Moose, Bighorn Sheep, or Mountain Goat Controlled Hunt Permits. Holders of moose, bighorn sheep, or mountain goat controlled hunt permits may request: (3-20-04)

a. A refund of the hunting license, controlled hunt permit, and controlled hunting tag fee; or (3-20-04)

b. A rain check for a hunting license, controlled hunt permit, and controlled hunt tag for the 20045 hunting season. ~~(3-20-04)~~(3-26-04)T

07. Ineligible to Request Tag or Permit Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag or permit fee for that species will not be refunded or eligible for a rain check for the 20045 season. ~~(3-20-04)~~(3-26-04)T

08. Ineligible to Request License Fee Refund or Rain Check. If the person hunts for any species during the 20034 season before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the 20045 season. ~~(3-20-04)~~(3-26-04)T

09. Rain Check Requests Must be for Same Species. All rain check requests must be made for the same species. For example, a deer tag will not be eligible for a rain check of an elk tag in the 20045 next season. ~~(3-20-04)~~(3-26-04)T

10. Refunds Will be for the Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. (3-20-04)

11. Use of Department-Approved Form for Rain Check or Refund Request. Resident and nonresident military personnel who have purchased general season tags or controlled hunt tags and are unable to participate in any hunting activities due to military deployment must submit a request for a refund or rain check on the department-approved form (found on Idaho Fish and Game website www2.state.id.us/fishgame) by January 1, 20045, along with a copy of their deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty in Operation Iraqi Freedom. Those requests received after this date will not be eligible for the special refund or rain check. ~~(3-20-04)~~(3-26-04)T

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.06 - RULES GOVERNING CLASSIFICATION AND PROTECTION OF WILDLIFE

DOCKET NO. 13-0106-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule updated classification lists which had not been updated for some time. The lists need to be kept current because they are referenced in various aspects of Department activities such as Scientific Collecting Permits and requests from other state and federal agencies, nongovernmental organizations, consulting businesses, and individuals.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 248 through 258.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is March 15, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-201, Idaho Code.

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Classification & Protection of Wildlife

Docket No. 13-0106-0401
PENDING RULE

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The classification lists have not been updated for some time. The lists need to be kept current because they are referenced in various aspects of Department activities such as Scientific Collecting Permits and requests from other state and federal agencies, nongovernmental organizations, consulting businesses, and individuals.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit by updating the wildlife classification lists.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking to update the classification lists, and the lack of identifiable representatives of affected interests.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Chuck Harris (208) 287-4747.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut - P.O. Box 25
Boise, Idaho 83707
(208) 334-3715 / Fax (208) 334-2148

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Classification & Protection of Wildlife

Docket No. 13-0106-0401
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-201, Idaho Code, to adopt rules concerning the taking of wildlife species and the classification of all wildlife in the state of Idaho. (3-15-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.06.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.06, “Rules Governing Classification and Protection of Wildlife”. (3-15-04)T

02. Scope. These rules establish the classification and protection of wildlife. (3-15-04)T

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of these rules. (3-15-04)T

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 13.01.01, “Rules of Practice and Procedure of the Idaho Fish and Game Commission,” and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (3-15-04)T

004. INCORPORATION BY REFERENCE.

There are no documents that have been incorporated by reference into this rule. (3-15-04)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho, and is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is P.O. Box 25, Boise, Idaho 83707. (3-15-04)T

0006. -- 099. (RESERVED).

100. CLASSIFICATION OF WILDLIFE.

- 01. Big Game Animals.** (7-1-93)
 - a.** Black bear - *Ursus americanus*. (7-1-93)
 - b.** California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)
 - c.** Elk - *Cervus elaphus*. (7-1-93)
 - d.** Gray wolf - *Canis lupus* (3-15-04)T
 - de.** Moose - *Alces alces*. (7-1-93)

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- f. Mountain goat - *Oreamnos americanus*. (7-1-93)
- g. Mountain lion - ~~Felis~~ Puma *concolor*. (~~7-1-93~~)(3-15-04)T
- h. Mule deer - *Odocoileus hemionus*. (7-1-93)
- i. Pronghorn antelope - *Antilocapra americana*. (7-1-93)
- j. Rocky Mountain bighorn sheep - *Ovis canadensis canadensis*. (7-1-93)
- k. White-tailed deer - *Odocoileus virginianus*. (7-1-93)
- 02. Upland Game Animals. (7-1-93)
 - a. ~~Nuttall's~~ Mountain cottontail - *Sylvilagus nuttallii*. (~~7-1-93~~)(3-15-04)T
 - b. Pygmy rabbit - *Brachylagus idahoensis*. (7-1-93)
 - c. Snowshoe hare - *Lepus americanus*. (7-1-93)
- 03. Game Birds. Game birds includes both upland game birds and migratory game birds. (7-1-93)
 - a. Upland Game Birds. (7-1-93)
 - i. Pheasants: Chinese or ring-necked pheasant *Phasianus colchicus*; Mongolian pheasant; mutant pheasant; Japanese green pheasant; or any hybrids thereof-*Phasianus spp.*. (~~7-1-93~~)(3-15-04)T
 - ii. Partridge: gray (Hungarian) partridge, *Perdix perdix*; chukar, *Alectoris chukar*; and ~~French~~ Red-legged partridge, *Alectoris rufa*. (~~7-1-93~~)(3-15-04)T
 - iii. Quail: northern bobwhite, *Colinus virginianus*; California quail, *Callipepla californica*; mountain quail, *Oreortyx pictus*; and Gambel's quail, *Callipepla gambelii*. (7-1-93)
 - iv. Grouse: Blue grouse, *Dendragapus obscurus*; ruffed grouse, *Bonasa umbellus*; spruce grouse, ~~Dendragapus~~ Falcapennis *canadensis*; Greater sage grouse, *Centrocercus urophasianus*; and Columbian sharp-tailed grouse, *Tympanuchus phasianellus columbianus*. (~~7-1-93~~)(3-15-04)T
 - v. Wild turkey: Rio Grande, *Meleagris gallopavo intermedia*; Merriam's, *M. g. merriami*; and Eastern, *M. g. silvestris*. (~~7-1-93~~)(3-15-04)T
 - b. Migratory Game Birds: (7-1-93)
 - i. ~~Coot~~ American coot, *Fulica americana*. (~~7-1-93~~)(3-15-04)T

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- ii. ~~Dove: m~~ Mourning dove, *Zenaida macroura*. (7-1-93)(3-15-04)T
- iii. Ducks: American black duck, *Anas rubripes*; bufflehead, *Bucephala albeola*; canvasback, *Aythya valisineria*; gadwall, *Anas strepera*; Barrow's goldeneye, *Bucephala islandica*; common goldeneye, *Bucephala clangula*; harlequin duck, *Histrionicus histrionicus*; mallard, *Anas platyrhynchos*; common merganser, *Mergus merganser*; hooded merganser, *Lophodytes cucullatus*; red-breasted merganser, *Mergus serrator*; ~~oldsquaw~~ long-tailed duck, *Clangula hyemalis*; northern pintail, *Anas acuta*; redhead, *Aythya americana*; ring-necked duck, *Aythya collaris*; ruddy duck, *Oxyura jamaicensis*; greater scaup, *Aythya marila*; lesser scaup, *Aythya affinis*; surf scoter, *Melanitta perspicillata*; white-winged scoter, *Melanitta fusca*; northern shoveler, *Anas clypeata*; blue-winged teal, *Anas discors*; cinnamon teal, *Anas cyanoptera*; green-winged teal, *Anas crecca*; American wigeon, *Anas americana*; ~~European~~ Eurasian wigeon, *Anas penelope*; and wood duck, *Aix sponsa*. (7-1-93)(3-15-04)T
- iv. ~~Brant: black brant, Branta bernicla.~~ (7-1-93)
- iv. Geese: Brant, *Branta bernicla*; Canada goose, *Branta canadensis*; emperor goose, *Chen canagica*; Ross's goose, *Chen rossii*; snow goose, *Chen caerulescens*; and greater white-fronted goose, *Anser albifrons*. (7-1-93)(3-15-04)T
- vi. Swans: Trumpeter swan, ~~Old~~ *Cygnus buccinator*; and Tundra swan, ~~Old~~ *Cygnus columbianus*. (7-1-93)(3-15-04)T
- vii. ~~Snipe: Common, Capella~~ Wilson's snipe - ~~g~~ *Gallinago delicata*. (7-1-93)(3-15-04)T
- viii. Greater ~~s~~ Sandhill ~~e~~ Crane: *Grus canadensis*. (7-1-93)(3-15-04)T
- c. American Crow - *Corvus brachyrhynchos*. (3-15-04)T
- 04. Game Fish.** Game fish includes the following fish, bullfrog and crayfish: (2-23-94)
- a. American shad - *Alosa sapidissim*. (7-1-93)
- ~~b.~~ ~~American smelt - Osmerus mordax.~~ (7-1-93)
- ~~c.~~ ~~Arctic char, blueback trout - Salvelinus alpinus.~~ (2-23-94)
- ~~d.~~ Arctic grayling - *Thymallus arcticus*. (7-1-93)
- ~~e.~~ Atlantic salmon - *Salmo salar*. (7-1-93)
- d. Bear Lake cutthroat trout - *Oncorhynchus clarki sp.* (3-15-04)T
- f. Bear Lake whitefish - *Prosopium abyssicola*. (7-1-93)
- g. Black bullhead - ~~Ictalurus~~ *Ameiurus melas*. (7-1-93)(3-15-04)T

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h g.	Black crappie - <i>Pomoxis nigromaculatus</i> .	(7-1-93)
i h.	Blue Catfish - <i>Ictalurus furcatus</i> .	(7-1-93) (3-15-04)T
i .	Blueback trout - <i>Salvelinus alpinus oquassa</i> .	(3-15-04)T
j.	Bluegill - <i>Lepomis macrochirus</i> .	(7-1-93)
k .	Bluegill/Pumpkinseed - <i>L. macrochirus x L. gibbosus</i> hybrid.	(3-15-04)T
k l.	Bonneville cisco - <i>Prosopium gemmiferum</i> .	(7-1-93)
m .	Bonneville cutthroat trout - <i>Oncorhynchus clarki utah</i> .	(3-15-04)T
h n.	Bonneville whitefish - <i>Prosopium spilonotus</i> .	(7-1-93)
m o.	Brook trout - <i>Salvelinus fontinalis</i> .	(7-1-93)
m p.	Brown bullhead - <i>Ictalurus</i> <i>Ameiurus nebulosus</i> .	(7-1-93) (3-15-04)T
o q.	Brown trout - <i>Salmo trutta</i> .	(7-1-93)
p r.	Bull trout - <i>Salvelinus confluentus</i> .	(7-1-93)
q s.	Bullfrog - <i>Rana catesbeiana</i> .	(7-1-93)
r t.	Burbot, Ling - <i>Lota lota</i> .	(7-1-93)
u .	California golden trout - <i>Oncorhynchus mykiss aguabonita</i> .	(3-15-04)T
s v.	Channel catfish - <i>Ictalurus punctatus</i> .	(7-1-93)
t w.	Chinook salmon - <i>Oncorhynchus tshawytscha</i> .	(7-1-93)
m x.	Coho salmon - <i>Oncorhynchus kisutch</i> .	(7-1-93)
r y.	Crayfish - <i>Pacifastacus sp.</i> (3 species).	(2-23-94)
w z.	Cutthroat trout - <i>Oncorhynchus clarki</i> .	(7-1-93)
aa .	Finespotted cutthroat trout (Snake River) - <i>Oncorhynchus clarki sp.</i>	(3-15-04)T
x bb.	Flathead catfish - <i>Pylodictis olivaris</i> .	(7-1-93)
y .	Golden trout - <i>Oncorhynchus aguabonita</i>.	(7-1-93)
z cc.	Green sunfish - <i>Lepomis cyanellus</i> .	(7-1-93)

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<u>dd.</u>	<u>Kokanee - <i>Oncorhynchus nerka kennerlyi</i>.</u>	(3-15-04)T
<u>ee.</u>	<u>Lahotan cutthroat trout - <i>Oncorhynchus clarki henshawi</i>.</u>	(3-15-04)T
aa <u>ff.</u>	Lake trout, Mackinaw - <i>Salvelinus namaycush</i> .	(7-1-93)
bb <u>gg.</u>	Lake whitefish - <i>Coregonus clupeaformis</i> .	(7-1-93)
ee <u>hh.</u>	Largemouth bass - <i>Micropterus salmoides</i> .	(7-1-93)
dd <u>ii.</u>	Mountain whitefish - <i>Prosopium williamsoni</i> .	(7-1-93)
ee <u>jj.</u>	Northern pike - <i>Esox lucius</i> .	(7-1-93)
ff <u>kk.</u>	Pumpkinseed - <i>Lepomis gibbosus</i> .	(7-1-93)
gg <u>ll.</u>	Pygmy whitefish - <i>Prosopium coulteri</i> .	(7-1-93)
hh <u>mm.</u>	Rainbow trout - <i>Oncorhynchus mykiss</i> .	(7-1-93)
<u>nn.</u>	<u>Redband trout - <i>Oncorhynchus mykiss gairdneri</i>.</u>	(3-15-04)T
# <u>oo.</u>	Rainbow/cutthroat trout - <i>O. mykiss</i> x <i>O. clarki</i> hybrid.	(2-23-94)
jj <u>pp.</u>	Sauger - <i>Stizostedion canadense</i> .	(7-1-93)
kk <u>qq.</u>	Smallmouth bass - <i>Micropterus dolomieu</i> .	(7-1-93)(3-15-04)T
ll <u>rr.</u>	Splake - <i>S. namaycush</i> x <i>S. fontinalis</i> hybrid.	(2-23-94)
mm <u>ss.</u>	Sockeye salmon, kokanee - <i>Oncorhynchus nerka</i> .	(7-1-93)(3-15-04)T
nn <u>tt.</u>	Steelhead <u>trout</u> - <i>Oncorhynchus mykiss gairdneri</i> .	(7-1-93)(3-15-04)T
oo <u>uu.</u>	Tiger muskie - <i>Esox lucius</i> x <i>Esox masquinongy</i> hybrid.	(7-1-93)
pp <u>vv.</u>	Walleye - <i>Stizostedion vitreum</i> .	(7-1-93)
qq <u>ww.</u>	Warmouth - <i>Lepomis gulosus</i> .	(7-1-93)
<u>xx.</u>	<u>Westslope cutthroat trout - <i>Oncorhynchus clarki lewisi</i>.</u>	(3-15-04)T
rr <u>yy.</u>	White crappie - <i>Pomoxis annularis</i> .	(7-1-93)
ss <u>zz.</u>	White sturgeon - <i>Acipenser transmontanus</i> .	(7-1-93)
<u>aaa.</u>	<u>Yellow bullhead - <i>Ameiurus natalis</i>.</u>	(3-15-04)T

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- ~~#bbb.~~ Yellow perch - *Perca flavescens*. (7-1-93)
- ~~ccc.~~ Yellowstone cutthroat trout - *Oncorhynchus clarki bouvieri*. (3-15-04)T
- ~~05.~~ ~~**Migratory Birds.**~~ Common American crow - *Corvus brachyrhynchos*. (7-1-93)
- ~~065.~~ **Furbearing Animals.** (7-1-93)
- a. American ~~B~~badger - *Taxidea taxus*. (7-1-93)(3-15-04)T
- ~~fb.~~ American ~~M~~marten - *Martes americana*. (7-1-93)(3-15-04)T
- ~~gc.~~ American ~~M~~mink - *Mustela vison*. (7-1-93)(3-15-04)T
- ~~bd.~~ Beaver - *Castor canadensis*. (7-1-93)
- ~~ee.~~ Bobcat - ~~Felis~~ *Lynx rufus*. (7-1-93)(3-15-04)T
- ~~ef.~~ Canada ~~L~~lynx - ~~Felis~~ *Lynx canadensis*. (7-1-93)(3-15-04)T
- ~~hg.~~ Common ~~M~~muskrat - *Ondatra zibethicus*. (7-1-93)(3-15-04)T
- ~~kh.~~ Common ~~R~~raccoon - *Procyon lotor*. (7-1-93)(3-15-04)T
- ~~di.~~ Fisher - *Martes pennanti*. (7-1-93)
- j. Northern river ~~O~~otter - ~~Lutra~~ *Lontra canadensis*. (7-1-93)(3-15-04)T
- ~~fk.~~ Red fox - *Vulpes vulpes*-includes all color phases found in Idaho. (7-1-93)
101. -- 149. (RESERVED).
150. ~~**SPECIES OF SPECIAL CONCERN,**~~ THREATENED OR ENDANGERED SPECIES.
 01. **Definitions.** (7-1-93)
 - a. Endangered-~~Species~~: Any native species in danger of extinction throughout all or a significant portion of its Idaho range. (7-1-93)(3-15-04)T
 - b. ~~*Peripheral Species: A species of special concern which has populations in Idaho that are on the edge of a breeding range that falls largely outside Idaho.*~~ Threatened Species: Any native species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range. (7-1-93)(3-15-04)T
 - ~~c.~~ ~~*Priority Species: A species of special concern for which Idaho presently constitutes or formerly constituted a significant portion of its range.*~~ (7-1-93)

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~~d.~~ *Species: includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.* (7-1-93)

~~e.~~ *Species of Special Concern: Native Idaho species which are either low in numbers, limited in distribution, or have suffered significant habitat losses.* (7-1-93)

~~f.~~ *Threatened Species: Any species likely to be classified as Endangered within the foreseeable future throughout all or a significant portion of its Idaho range.* (7-1-93)

~~g.~~ *Undetermined Status Species: A species of special concern that may be rare in Idaho, but for which there is little information on population status, distribution and/or habitat requirements.* (7-1-93)

02. Endangered Species. (7-1-93)

~~a.~~ *Bald eagle – Haliaeetus leucocephalus. Burbot, Ling - Lota lota.* (7-1-93)(3-15-04)T

~~b.~~ *Caribou – Rangifer tarandus.* (7-1-93)

~~c.~~ *Chinook salmon, fall – Oncorhynchus tshawytscha.* (7-1-93)

~~d.~~ *Cutthroat trout, Bonneville – Oncorhynchus clarki utah.* (7-1-93)

~~e.~~ *Gray wolf – Canis lupus.* (7-1-93)

~~f.~~ *Pacific lamprey - Lampetra tridentata.* (7-1-93)

~~g.~~ *Peregrine falcon – Falco peregrinus.* (7-1-93)

~~h.~~ *Sockeye salmon - Oncorhynchus nerka.* (7-1-93)

~~i.~~ *White sturgeon (Kootenai River population) - Acipenser transmontanus.* (7-1-93)

~~b.~~ *Woodland ~~Caribou~~ - Rangifer tarandus caribou.* (7-1-93)(3-15-04)T

~~j.~~ *Whooping crane – Grus americana.* (7-1-93)

03. Threatened Species. (7-1-93)

~~a.~~ *Burbot, Ling – Lota lota. Bald eagle - Haliaeetus leucocephalus.* (7-1-93)(3-15-04)T

~~g.~~ *Bull trout - Salvelinus confluentus.* (7-1-93)

~~c.~~ *Canada lynx - Lynx canadensis.* (3-15-04)T

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- | | | |
|---------------------------|---|--------------------|
| b <u>d</u> . | Chinook salmon, spring, and summer, and fall - <i>Oncorhynchus tshawytscha</i> . | (7-1-93)(3-15-04)T |
| e <u>e</u> . | Grizzly bear - <i>Ursus arctos horribilis</i> . | (7-1-93)(3-15-04)T |
| f <u>f</u> . | Northern Idaho ground squirrel - <i>Spermophilus brunneus brunneus</i> . | (3-15-04)T |
| g <u>g</u> . | Peregrine falcon - <i>Falco peregrinus</i> . | (3-15-04)T |
| h <u>h</u> . | Steelhead trout (Snake River) - <i>Oncorhynchus mykiss gairdneri</i> | (3-15-04)T |
| 04 <u>04</u> . | Priority Species. | (7-1-93) |
| a <u>a</u> . | American white pelican—<i>Pelecanus erythrorhynchos</i>. | (7-1-93) |
| b <u>b</u> . | Bear Lake sculpin—<i>Cottus extensus</i>. | (7-1-93) |
| c <u>c</u> . | Bear Lake whitefish—<i>Prosopium abyssiola</i>. | (7-1-93) |
| d <u>d</u> . | Bonneville cisco—<i>Prosopium gemmiferum</i>. | (7-1-93) |
| e <u>e</u> . | Bonneville whitefish—<i>Prosopium spilonotus</i>. | (7-1-93) |
| f <u>f</u> . | Boreal owl—<i>Aegolius funereus</i>. | (7-1-93) |
| g <u>g</u> . | Bull trout—<i>Salvelinus confluentus</i>. | (7-1-93) |
| h <u>h</u> . | Common loon—<i>Gavia immer</i>. | (7-1-93) |
| i <u>i</u> . | Coeur d'Alene salamander—<i>Plethodon vandykei idahoensis</i>. | (7-1-93) |
| j <u>j</u> . | Cutthroat trout, Bear Lake—<i>Oncorhynchus clarki ssp</i>. | (7-1-93) |
| k <u>k</u> . | Cutthroat trout, Snake River fine-spotted—<i>Oncorhynchus clarki ssp</i>. | (7-1-93) |
| l <u>l</u> . | Cutthroat trout, Westslope—<i>Oncorhynchus clarki lewisi</i>. | (7-1-93) |
| m <u>m</u> . | Cutthroat trout, Yellowstone—<i>Oncorhynchus clarki bouvieri</i>. | (7-1-93) |
| n <u>n</u> . | Ferruginous hawk—<i>Buteo regalis</i>. | (7-1-93) |
| o <u>o</u> . | Fisher—<i>Martes pennanti</i>. | (7-1-93) |
| p <u>p</u> . | Harlequin duck—<i>Histrionicus histrionicus</i>. | (7-1-93) |
| q <u>q</u> . | Idaho ground squirrel—<i>Spermophilus brunneus</i>. | (7-1-93) |
| r <u>r</u> . | Mountain quail—<i>Oreortyx pictus</i>. | (7-1-93) |

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s.	Redband trout—<i>Oncorhynchus mykiss</i> ssp.	(7-1-93)
t.	Shoshone sculpin—<i>Cottus greeniei</i>.	(7-1-93)
u.	Steelhead trout—<i>Oncorhynchus mykiss</i>.	(7-1-93)
v.	Trumpeter swan—<i>Cygnus buccinator</i>.	(7-1-93)
w.	Upland sandpiper—<i>Bartramia longicauda</i>.	(7-1-93)
x.	White sturgeon (Snake/Salmon River populations)—<i>Acipenser transmontanus</i>.	(7-1-93)
y.	Wolverine—<i>Gulo gulo</i>.	(7-1-93)
z.	Wood River sculpin—<i>Cottus leiopomus</i>.	(7-1-93)
05.	Peripheral Species.	(7-1-93)
a.	Cliff chipmunk—<i>Tamias dorsalis</i>.	(7-1-93)
b.	Coast mole—<i>Scapanus orarius</i>.	(7-1-93)
c.	Dark kangaroo mouse—<i>Microdipodops megacephalus</i>.	(7-1-93)
d.	Great egret—<i>Casmerodius albus</i>.	(7-1-93)
e.	Kit fox—<i>Vulpes macrotis</i>.	(7-1-93)
f.	Little pocket mouse—<i>Perognathus longimembris</i>.	(7-1-93)
g.	Lynx—<i>Felis lynx</i>.	(7-1-93)
h.	Merlin—<i>Falco columbarius</i>.	(7-1-93)
i.	Mojave black-collared lizard—<i>Crotaphytus bicinctores</i>.	(7-1-93)
j.	Northern bog lemming—<i>Synaptomys borealis</i>.	(7-1-93)
k.	Rock squirrel—<i>Spermophilus variegatus</i>.	(7-1-93)
l.	Uinta chipmunk—<i>Tamias umbrinus</i>.	(7-1-93)
m.	Western ground snake—<i>Sonora semiannulata</i>.	(7-1-93)
n.	Wood frog—<i>Rana sylvatica</i>.	(7-1-93)

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n.	Yellow-billed cuckoo—Coccyzus americanus.	(7-1-93)
06.	Undetermined Status Species.	(7-1-93)
a.	Barred owl—Strix varia.	(7-1-93)
b.	Black-billed cuckoo—Coccyzus erythrophthalmus.	(7-1-93)
c.	California myotis—Myotis californicus.	(7-1-93)
d.	Flammulated owl—Otus flammeolus.	(7-1-93)
e.	Fringed myotis—Myotis thysanodes.	(7-1-93)
f.	Great gray owl—Strix nebulosa.	(7-1-93)
g.	Leatherside chub—Gila copei.	(7-1-93)
h.	Northern alligator lizard—Elgaria coerulea.	(7-1-93)
i.	Northern flying squirrel—Glaucomys sabrinus.	(7-1-93)
j.	Northern pygmy owl—Glaucidium gnoma.	(7-1-93)
k.	Preble's shrew—Sorex preblei.	(7-1-93)
l.	Pygmy shrew—Sorex hoyi.	(7-1-93)
m.	Pygmy nuthatch—Sitta pygmaea.	(7-1-93)
n.	Ringneck snake—Diadophis punctatus.	(7-1-93)
o.	Sand roller—Percopsis transmontana.	(7-1-93)
p.	Smooth green snake—Opheodrys vernalis.	(7-1-93)
q.	Spotted bat—Euderma maculatum.	(7-1-93)
r.	Three-toed woodpecker—Picoides tridaactylus.	(7-1-93)
s.	Townsend's big-eared bat—Plecotus townsendii.	(7-1-93)
t.	Western pipistrelle—Pipistrellus hesperus.	(7-1-93)
u.	Western pond turtle—Clemmys marmorata.	(7-1-93)
v.	White-headed woodpecker—Picoides albolarvatus.	(7-1-93)

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151. -- 199. (RESERVED).

200. PROTECTED NONGAME SPECIES.

- 01. Mammals. (7-1-93)
 - a. ~~Bison~~ ~~Bison bison~~ American pika - Ochotona princeps. (3-15-04)T
 - b. Bats - all species (3-15-04)T
 - ~~bc.~~ Chipmunks - ~~Tamias~~ Neotamias spp. (7-1-93)
 - d. Columbia Plateau (Merriam's) ground squirrel - *Spermophilus canus vigilis*. (3-15-04)T
 - ee. Golden-mantled ground squirrel - *Spermophilus lateralis*. (7-1-93)
 - f. ~~Pika~~ ~~Ochotona princeps~~ Great Basin (piute) ground squirrel - *Spermophilus canus vigilis*. (7-1-93)(3-15-04)T
 - dg. Kit fox - *Vulpes macrotis*. (7-1-93)
 - h. ~~Wolverine~~ ~~Gulo gulo~~ North American wolverine - *Gulo gulo luscus*. (7-1-93)(3-15-04)T
 - ei. Northern flying squirrel - *Glaucomys sabrinus*. (7-1-93)
 - gi. Red squirrel - *Tamiasciurus hudsonicus*. (7-1-93)
 - k. Rock squirrel - *Spermophilus variegatus*. (3-15-04)T
 - l. Southern Idaho ground squirrel - *Spermophilus brunneus endemicus*. (3-15-04)T
 - m. Wyoming ground squirrel - *Spermophilus elegans nevadensis*. (3-15-04)T
- 02. Birds. All native ~~species~~. Except: (7-1-93)(3-15-04)T
 - ~~a.~~ ~~English sparrow~~ ~~Passer domesticus~~. (7-1-93)
 - ~~b.~~ ~~Feral pigeons~~ ~~Columba livia~~. (7-1-93)
 - ea. Game birds. (7-1-93)
 - ~~d.~~ ~~Migratory birds~~. (7-1-93)
 - ~~e.~~ ~~Predatory wildlife~~. (7-1-93)
 - fb. Threatened or endangered wildlife. (7-1-93)

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DEPARTMENT OF FISH AND GAME Rules Governing Classification & Protection of Wildlife

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03. ~~Predatory Wildlife.~~ Amphibians. All native species (7-1-93)(3-15-04)T
- ~~a. Coyote - *Canis latrans*.~~ (7-1-93)
- ~~b. Jackrabbit - *Lepus townsendii* and *L. californicus*.~~ (7-1-93)
- ~~c. Skunk - *Mephitis mephitis* and *Spilogale gracilis*.~~ (7-1-93)
- ~~d. Starling - *Sturnus vulgaris*.~~ (7-1-93)
- ~~e. Weasel, ermine - *Mustela erminea*,~~ (7-1-93)
04. Reptiles. All native species. (3-15-04)T
05. Fish. (3-15-04)T
- a. Bear Lake sculpin - *Cottus extensus*. (3-15-04)T
- b. Leatherside chub - *Gila copei*. (3-15-04)T
- c. Sand roller - *Percopsis transmontana*. (3-15-04)T
- d. Shoshone sculpin - *Cottus greeniei*. (3-15-04)T
- e. Wood River sculpin - *Cottus leiopomus*. (3-15-04)T

201. PREDATORY WILDLIFE.

01. Coyote. *Canis latrans*. (7-1-93)
02. Jackrabbit. *Lepus townsendii* and *L. californicus*. (7-1-93)
043. Long-Tailed and Short-Tailed Weasel, Ermine. *Mustela frenata*, *Mustela erminea*. (7-1-93)(3-15-04)T
034. Skunk. *Mephitis mephitis* and *Spilogale gracilis*. (7-1-93)
05. Starling. *Sturnus vulgaris*. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

300. PROTECTION OF WILDLIFE.

01. **Game Species.** Those species of wildlife classified as Big Game Animals, Upland Game Animals, Game Birds, Migratory Birds, Game Fish, Crustacea, or Furbearing Animals may

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be taken only in accordance with Idaho law and ~~regulations~~ rules established by the Idaho Fish and Game Commission. (7-1-93)(3-15-04)T

02. Protected Nongame, ~~Species Of Special Concern~~ and Threatened or Endangered Species. No person shall take or possess those species of wildlife classified as Protected Nongame, ~~Species of Special Concern~~, or Threatened or Endangered at any time or in any manner, except as provided in Sections 36-106(e)5 and 36-1107, Idaho Code, ~~or~~ by Commission ~~regulation~~ rule, or IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife," Subsection 100.06.b. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health and/or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. (7-1-93)(3-15-04)T

03. Unprotected And Predatory Wildlife. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner not prohibited by state or federal law, by holders of the appropriate valid Idaho hunting, trapping, or combination hunting and fishing licenses, provided such taking is not in violation of state, county, or city laws, ordinances, or regulations. (7-1-93)

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season setting and rule adjustments. It establish a motorized vehicle use restriction for hunting in identified units, and establish an area closed to hunting at Mann's Lake in Nez Perce County.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 259 through 261.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be

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DEPARTMENT OF FISH AND GAME
Rules Governing the Taking of Upland Game Animals**Docket No. 13-0107-0401**
PENDING RULE

scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial season setting and rule adjustments. Establish a motorized vehicle use restriction for hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c) , Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunters by allowing the hunting season to continue without interruption.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Upland Game Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
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(208) 334-3715
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

101. MOTORIZED VEHICLE USE RESTRICTIONS.

The use of motorized vehicles by hunters as an aid to hunting upland game animals is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

01. Use Restriction. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

02. Exceptions. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

03. Restricted Areas and Hunts. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

04. Defined Terms. (4-28-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

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b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

1042. -- 199. (RESERVED).

200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.

Hunting, killing, or molesting upland game animals is prohibited in the following areas: (7-1-93)

01. Craters of the Moon. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. (7-1-93)(4-28-04)T

02. Harriman State Park. Harriman State Park Wildlife Refuge In Fremont County. (7-1-93)

03. Nez Perce National Historical Park. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

04. Ada County. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits; (5-3-03)

05. Yellowstone National Park. Yellowstone National Park in Fremont County; and (7-1-93)

06. Mann's Lake. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

067. Other. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

400. UPLAND GAME ANIMALS SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply STATEWIDE: Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and

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PENDING RULElicense vendors.~~(7-1-93)~~(4-28-04)T

- ~~01.~~ ~~Cottontail Rabbits.~~** ~~(5-3-03)~~
- ~~a.~~** ~~Seasons: September 1 through February 28, annually.~~ ~~(10-26-94)~~
- ~~b.~~** ~~Daily bag limit is eight (8).~~ ~~(5-3-03)~~
- ~~c.~~** ~~Possession limit after the first day of the season is sixteen (16).~~ ~~(5-3-03)~~
- ~~02.~~ ~~Snowshoe Hares.~~** ~~(7-1-93)~~
- ~~a.~~** ~~Seasons: September 1 through March 31, annually.~~ ~~(10-26-94)~~
- ~~b.~~** ~~Daily bag limit is eight (8).~~ ~~(7-1-93)~~
- ~~c.~~** ~~Possession limit after the first day of the season is sixteen (16).~~ ~~(7-1-93)~~

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IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.08 - RULES GOVERNING THE TAKING OF BIG GAME ANIMALS IN THE STATE OF IDAHO

DOCKET NO. 13-0108-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule performed an annual update of Big Game seasons and rules. It prohibit the hunting of Big Game within enclosures, clarified the motorized vehicle hunting restriction, and clarified the use of the nonresident junior mentored hunting license and tags. It required an adult with a tag for the same species and area to accompany nonresident junior mentored hunters, deleted the requirement for a mandatory check of Panhandle elk, clarified the areas closed to hunting, defined four-point deer, and simplified the evidence of sex requirements.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 263 through 278.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is March 26, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures

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have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Annual update of Big Game seasons and rules. Prohibit the hunting of Big Game within enclosures. Clarify the motorized vehicle hunting restriction. Clarify the use of the nonresident junior mentored hunting license and tags. Require an adult with a tag for the same species and area to accompany nonresident junior mentored hunters. Delete the requirement for a mandatory check of Panhandle elk. Clarify the areas closed to hunting. Define four-point deer. Simplify the evidence of sex requirements.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the seasons to continue uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the lack of identifiable representatives of the license-buying public, the need for the seasons to continue uninterrupted, and the need to publish the Big Game Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brad Compton (208) 287-2756.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 11th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game

Senate Resource and Environment Committee

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

- 01. Big Game Animals.** Big game animals are defined as the following species: (7-1-93)
- a.** Mule deer - *Odocoileus hemionus*. (7-1-93)
 - b.** White-tailed deer - *Odocoileus virginianus*. (7-1-93)
 - c.** Elk - *Cervus elaphus*. (7-1-93)
 - d.** Moose - *Alces alces*. (7-1-93)
 - e.** Pronghorn antelope - *Antilocapra americana*. (7-1-93)
 - f.** Rocky Mountain bighorn sheep - *Ovis canadensiscanadensis*. (7-1-93)
 - g.** California bighorn sheep - *Ovis canadensis californiana*. (7-1-93)
 - h.** Mountain goat - *Oreamnos americanus*. (7-1-93)
 - i.** Black bear - *Ursus americanus*. (7-1-93)
 - j.** Mountain lion - *Puma concolor*. (4-5-00)
 - k.** Gray wolf - *Canis lupus* (3-26-04)T

(BREAK IN CONTINUITY OF SECTIONS)

250. TAGS AND PERMITS.

No person shall hunt big game animals without having in possession the appropriate hunting license, tags, stamps and permits. (7-1-93)

- 01. Use of Tags.** (7-1-93)

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a. Permit/Tags issued for moose, bighorn sheep, mountain goat and antelope may be used only in the controlled hunt for which the permittee was drawn. (7-1-93)

~~**b.** A tag issued for mountain lion after the mountain lion season opens may NOT be used until the second day following its purchase. (3-20-97)~~

~~**c.** A tag issued for black bear after the black bear season opens may NOT be used until the second day following its purchase. (3-20-97)~~

~~**d.**~~ **b.** Tags issued for antelope archery hunts may be used only in general archery hunts. (7-1-93)

~~**e.**~~ **c.** Extra tags issued for deer, elk or antelope may be used only in the hunt area for which the tags are issued. (7-1-93)

~~**f.**~~ **d.** Any person who purchases a tag to hunt black bear, or archery antelope, who is unsuccessful in killing an animal, and who is subsequently drawn for a controlled hunt permit, including an antelope landowner preference permit, must return the unused tag to a Department office not later than August 10 to exchange the tag for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-20-97)

~~**g.**~~ **e.** Tags issued for black bear and mountain lion may be used statewide. Extra tags issued for black bear and mountain lion may be used only in the hunt area for which the tags are issued. (4-5-00)

~~**h.**~~ **f.** Regular tags issued for deer and elk may be used ONLY as follows: (7-1-93)

i. Regular Deer:

TYPE OF TAG	SEASONS
Resident (Type 311)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
Resident (Type 330)	Extra Any antlerless deer tag season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20.
Senior Resident (Type 330)	Any archery, muzzleloader or general deer season. EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20.
S.E. Idaho Area Units 75, 76, 77, and 78 Nonresident	To Hunt Deer in Units 75, 76, 77, and 78 you must have your deer tag validated for use in these units. These tags are limited to one thousand two-hundred (1200) nonresident tags and will be issued first come <u>first served by lottery</u> . EXCEPT in Clearwater Region, Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, & 20
Nonresident (Type 411)	Any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn, or may be used to tag a black bear or mountain lion during the Regular deer season when the black bear or mountain lion season is open.

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TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~(3-30-01)~~(3-26-04)T

ii. Clearwater Deer.

TYPE OF TAG	SEASONS
Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Resident Extra Clearwater	To hunt an extra any-antlerless deer tag season in Units 8, 8A, 40 , 10A, 41 , 11A, 42, 13 , 14, <u>and</u> 15, 16, 16A, 17, 18, 19, and 20 . These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Senior Resident Clearwater	To hunt deer in any archery, muzzleloader or general deer season in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region units, and Regular Deer tags are not valid in these units.
Nonresident Clearwater	To hunt deer in any archery, muzzleloader or general deer season or controlled hunt for which the permittee was drawn in Units 8, 8A, 10, 10A, 11, 11A, 12, 13, 14, 15, 16, 16A, 17, 18, 19, and 20. These tags are valid only in the Clearwater Region and may be used to tag a black bear or mountain lion during the Clearwater deer season when the black bear or mountain lion season is open. Regular Deer tags are not valid in these units.

~~(3-30-01)~~(3-26-04)T

iii. Elk A Tag: ~~Valid~~ only for A Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any elk archery, muzzleloader or general season in A Tag elk seasons in specific zones.
Senior Resident	Any elk archery, muzzleloader, or general season in A Tag seasons in specific zones.
Nonresident	Any elk archery, muzzleloader, or general season in A Tag elk seasons in specific zones, or controlled hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the and Tag permittee was drawn.

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TYPE OF TAG	SEASONS
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Hunt Permit and Extra Tag	Only the designated controlled extra tag hunt for which the permittee was drawn.

~~(7-1-99)~~(3-26-04)T

- iv. Elk B Tag: ~~Valid~~ only for B Tag elk seasons in specific elk zones.

TYPE OF TAG	SEASONS
Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Senior Resident	Any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Nonresident	Any elk controlled hunt for which the permittee was drawn or any archery, muzzleloader, or general in B Tag elk seasons in specific zones.
Combination Controlled Hunt Permit and Tag	Only the designated controlled hunt for which the permittee was drawn.
Combination Controlled Depredation Hunt Permit and Tag	Only the designated controlled depredation hunt for which the permittee was drawn.
Combination Controlled Permit and Extra Tag	Only the designated controlled and extra tag hunt for which the permittee was drawn.

~~(7-1-99)~~(3-26-04)T

- v. Super Tag.

TYPE OF TAG	SEASONS
Combination Controlled Hunt Permit and "Super" Tag	Valid for either antelope, deer or elk and allows the hunter to hunt in any open and/or controlled hunt for the selected species.

(3-15-02)

- g.** Nonresident Junior Mentored Deer tags are not valid for bear or mountain lion.
 (3-26-04)T

h. Any person hunting with a Nonresident Junior Mentored License or tag must be accompanied in the field by an adult license holder close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices.
 (3-26-04)T

i. Any adult accompanying the holder of a Nonresident Junior Mentored Tag must have a tag for the same species, valid in the same area.
 (3-26-04)T

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02. Return of Tags by Unsuccessful Permittees. Permittees who are not successful in killing a bighorn sheep, mountain goat or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. (5-15-95)

03. Archery and Muzzleloader Permits. Any person hunting in an archery only or muzzleloader only season must have the appropriate permit (archery or muzzleloader) for the relevant season validated on their license. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

260. PERMITS FOR CONTROLLED HUNTS.

01. Use of Controlled Hunt Permits. No person may hunt in any controlled hunt without having a valid controlled hunt permit in possession. (7-1-93)

a. A controlled hunt area with an “X” suffix is an extra tag hunt. (10-26-94)

b. In the event a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

c. Any person who receives a controlled hunt permit and tag for deer is prohibited from hunting in any other deer hunt--archery, muzzleloader, or general; EXCEPT the holder of a deer controlled hunt permit and tag may purchase a tag for and hunt in an extra tag hunt, or controlled hunt permit/extra tag hunt for deer. (3-20-97)

d. Any person who receives a combination controlled hunt permit/extra tag for deer may hunt in any other deer hunt--archery, muzzleloader, general or controlled hunt. (7-1-93)

e. Any person who receives a controlled hunt permit for elk is prohibited from hunting in any other elk hunt--archery, muzzleloader, or general; EXCEPT a controlled hunt permit holder may purchase a tag for and hunt in an extra tag hunt for elk. (7-1-93)

f. Any person who receives a combination controlled hunt permit/tag for antelope is prohibited from hunting in any archery antelope hunt. The holder of an antelope combination controlled hunt permit/extra tag may apply for a combination controlled hunt permit/tag for antelope or may purchase a tag for an archery antelope hunt. (7-1-93)

g. Any person who receives a spring controlled hunt permit for black bear is prohibited from hunting in any other spring bear hunt - April 15 to June 30. (7-1-99)

h. Any person who receives a fall controlled hunt permit for black bear is prohibited from hunting in any other fall bear hunts--September 15 to October 31. (10-26-94)

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02. Nonresident Permit Limitations.

(3-20-04)

a. In controlled hunts with ten (10) or fewer permits, not more than one (1) nonresident permit will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) permits, not more than ten percent (10%) of the permits will be issued to nonresidents. This rule shall be applied to each uniquely numbered controlled hunt ~~only~~ and to the controlled hunts for each species. ~~(3-20-04)~~(3-26-04)T

b. Outfitter allocated hunts are exempt from the limitation of Subsection 260.02.a.

(3-20-04)

c. For each species, the total number of outfitter allocated controlled hunt permits shall be subtracted from the result of ten percent (10%) of the sum of all controlled hunt permits; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of Subsection 260.02.a., the resulting net number shall be the maximum number of controlled hunt permits that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. (3-20-04)

03. Eligibility. Any person possessing a valid Idaho hunting license is eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

a. Holders of a Nongame Hunting License (Type 208) ~~or Two-day (2) Deer License (Type 132)~~ may not apply for any controlled hunt. ~~(10-26-94)~~(3-26-04)T

b. Any person whose name was drawn on a controlled hunt for either sub-species of bighorn sheep may not apply for any bighorn permit for two (2) years. Any person whose name was drawn on a controlled hunt for mountain goat may not apply for a mountain goat permit for two (2) years. Any person whose name was drawn on a controlled hunt for moose may not apply for a moose permit for two (2) years. Any person whose name was drawn on a controlled antlered-only deer hunt may NOT apply for any other controlled antlered-only deer hunt for one (1) year. Any person whose name was drawn on a controlled antlered-only elk hunt may NOT apply for any other controlled antlered-only elk hunt for one (1) year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of permits nor Landowner Preference Permits. EXCEPT all successful and unsuccessful antelope, deer and elk hunters that comply with all Mandatory Report requirements will be eligible to be randomly drawn for one (1) of ten (10) "Super" controlled antelope/deer/elk tags to hunt in any open general and/or controlled antelope, deer or elk hunt in the following hunting season. (3-15-02)

c. Any person applying for a bighorn sheep, mountain goat, or moose controlled hunt may NOT apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, or a designated depredation or extra tag hunt for deer, elk or antelope. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in first-come, first-served deer, elk and antelope controlled hunt permit sales. (10-26-94)

d. Any person who has killed a California bighorn ram, Rocky Mountain bighorn ram or a moose on any controlled hunt may not apply for a permit for the same subspecies, EXCEPT

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any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram permit for any hunt north of Interstate Highway 84. Any person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram permit for any hunt south of Interstate Highway 84. Auction tag and lottery tag winners are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep of either subspecies.

(4-5-00)

e. No person applying for a Rocky Mountain bighorn sheep controlled hunt as a first choice shall apply for a California bighorn sheep controlled hunt as a second choice. No person applying for a California bighorn sheep controlled hunt as a first choice shall apply for a Rocky Mountain bighorn sheep controlled hunt as a second choice. No person shall apply for both a Rocky Mountain and a California bighorn the same year.

(7-1-93)

f. Any person who kills a bighorn ewe may not apply for another bighorn ewe controlled hunt permit for five (5) years. The harvest of a bighorn ewe does not make the permittee ineligible to apply for a permit to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe may not apply for any bighorn ram the same year.

(7-1-93)

g. Any person who has killed a mountain goat since 1977 may not apply for a mountain goat permit.

(7-1-93)

h. Any person who has killed a moose in Idaho may not apply for a moose permit.

(4-5-00)

~~**i.** Any person holding a Nonresident Hunting License (Type 202) or a duplicate thereof may not apply for a moose permit.~~

~~(7-1-93)~~

ji. Any person applying for a landowner permission hunt must have a signed permission slip from a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. The permission slip must have the landowner's name and address on it along with the landowner's signature.

(7-1-98)

~~**kj.**~~ Any person may apply for both a controlled hunt permit/tag and a controlled hunt permit/extra tag.

(7-1-93)

~~**lk.**~~ Nonresident hound hunters applying for controlled black bear hunts must first obtain a Hound Hunter Permit pursuant to IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs".

(7-1-99)

04. Applications. Individual applications or group applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction.

(10-26-94)

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- a.** Spring black bear - Application period - January 15 - February 15. (3-26-04)T
- ~~a~~b.** Moose, bighorn sheep, and mountain goat - Application period for first drawing - April 1 - 30.
(~~7-1-93~~)(3-26-04)T
- ~~b~~c.** Deer, elk, antelope and fall black bear - Application period for first drawing - May 1 - 31.
(~~3-20-97~~)(3-26-04)T
- ~~c~~d.** ~~Spring black bear - February 16~~ Moose, bighorn sheep, and mountain goat - Application period for second drawing, if applicable - June 15 - 25. (~~3-20-97~~)(3-26-04)T
- e.** Deer, elk, antelope, and fall black bear - Application period for second drawing - August 5 - 15. (3-26-04)T

05. Applicant Requirements. Applicants must comply with the following requirements: (7-1-93)

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt permit/extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. (10-26-94)

b. Only one (1) controlled hunt permit/extra tag will be issued for each person on any application submitted. (10-26-94)

c. Several applications may be submitted in a single envelope so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt permit/tag hunts or controlled hunt permit/extra tag hunts. (10-26-94)

d. Fees must be submitted with each application. A single payment (either cashier's check, money order, certified check, or a personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is ~~five dollars (\$5)~~ set by Section 36-416, Idaho Code, per person per hunt, for deer, elk, antelope, moose, bighorn sheep, mountain goat, black bear, and lion, applied for and is NOT refundable. The tag fees are not to be submitted with either the telephone or mail-in-application for deer, elk, antelope, black bear, or mountain lion. Persons applying for moose, bighorn sheep, or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a permit tag in the mail. (~~7-1-98~~)(3-26-04)T

e. Any controlled hunt permits, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold forty five (45) days following the close of each respective controlled hunt drawing by any Point-of-Sale vendor on a first-come, first-served basis UNLESS such day is a Sunday, in which case the permits will go on sale the next legal business day. A controlled hunt permit and tag will be issued to successful applicants. The ten percent (10%) nonresident limitation shall not apply. Applicants with a tag already in possession

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must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag. The fee for the exchanged tag is the fee for a duplicate tag. (3-15-02)

f. A “group application” for deer, elk, and antelope is defined as two, three, or four (2, 3, or 4) hunters applying for the same controlled hunt on the same application. All hunters must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. (10-26-94)

g. A “group application” for moose, bighorn sheep, mountain goat, and black bear is defined as two (2) hunters applying for the same controlled hunt on the same application. Both hunters must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. (10-26-94)

h. If a group application exceeds the number of permits available in a hunt that group application will not be selected for that hunt. (7-1-98)

i. Landowner permission hunt permits will be sold first-come, first-served basis at the Nampa, McCall and Headquarters offices of the Idaho Department of Fish and Game after July 15. (7-1-98)

06. Refunds of Controlled Hunt Fees. (7-1-93)

a. Controlled hunt tag fees will be refunded to the unsuccessful or ineligible applicants for moose, sheep, and mountain goat. Unsuccessful applicants may donate all or a portion of their tag fee for moose, bighorn sheep, and mountain goat to Citizens Against Poaching by checking the appropriate box on the application. One dollar (\$1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. (3-20-97)

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. (10-26-94)

d. Overpayment of fees of more than five dollars (\$5) will be refunded. Overpayment of five dollars (\$5) or less will NOT be refunded and will be retained by the Department. (7-1-93)

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. (7-1-93)

08. Unclaimed Permits. Successful applicants for the first deer, elk, black bear, or antelope controlled hunt drawing must purchase and pick up their controlled hunt permit and tag by August 1. All controlled hunt tags and permits not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags and permits left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. (3-26-04)T

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261. -- 269. (RESERVED).

270. MANDATORY SCHOOL.

01. Sheep Permits. Anyone drawing a sheep permit must attend a mandatory sheep school at a Department office prior to hunting bighorn sheep. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. (7-1-93)

02. Use of Licensed Guide. Any hunter who will have an Idaho licensed guide with him at all times while hunting sheep may choose to have said guide attend in his place. This option may be accomplished by notifying the Department in writing of the name, address, and phone number of the designated guide. Notification must be sent to the Idaho Department of Fish and Game, c/o Sheep School, P.O. Box 25, Boise, Idaho 83707 and must be received by the Department prior to attendance by the designated guide. (7-1-93)

03. Mandatory Class for Deer Hunt Area 39-23. Anyone drawing a deer controlled archery-only hunt permit for controlled hunt area 39-23 must attend a mandatory hunter orientation class. The class is three (3) hours long and will be offered at times specified by the Department. The orientation classes will be offered on ten (10) dates between October 15 and November 15. Since classroom size is limited, each permittee must schedule a time to attend a class prior to October 15. Attendees will be issued a certificate of completion, which must be carried by the permittee during the hunt. Holders of "Certificates of Completion" from previous hunts are not required to attend this orientation class. ~~(10-26-94)~~(3-26-04)T

271. -- 299. (RESERVED).

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken as noted below: (7-1-93)

- a.** Mountain Goat. Either sex may be taken EXCEPT nannies accompanied by kids. (7-1-93)
- b.** Black Bear. Either sex may be taken EXCEPT female black bears accompanied by young. (7-1-93)
- c.** Mountain Lion. Either sex may be taken EXCEPT spotted young or females accompanied by young. (7-1-93)

02. Seasons Restricted to Antlered or Male Animals Only. (7-1-93)

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season which is open for antlered deer only. (7-1-93)

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any

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season which is open for two-point deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting the brow point or tine may be taken in any season which is open for three-point or larger deer only. A point is an antler projection that is at least one (1) inch long and longer than the width of the projection. (3-15-02)

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season that is open for four-point or larger deer only. (3-26-04)T

~~de.~~ Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. (7-1-99)

~~ef.~~ Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. (7-1-99)

~~fg.~~ Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. (3-15-02)

~~gh.~~ Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. (7-1-93)

~~hi.~~ Bighorn Sheep. Only bighorn sheep rams having three-fourths (3/4) curl or greater horns or exceeding four (4) years of age may be taken in any hunt open for rams only. Determination of a three-fourths (3/4) curl shall be made from a broad side view of the head. A ram shall be considered three-fourths (3/4) curl if an imaginary straight line extending downward from the front of the base of the horn through the center of the eye socket intersects any portion of the horn. (7-1-93)

03. Seasons Restricted to Antlerless or Female Animals Only. (7-1-93)

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season which is open for antlerless deer only. (7-1-93)

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season which is open for antlerless elk only. (7-1-93)

c. Antelope. Only antelope without a black "cheek patch" or horns less than three (3) inches long may be taken during doe and fawn only antelope seasons. (7-1-93)

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. (7-1-93)

e. Moose. Only moose without antlers or with antlers less than six (6) inches long

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may be taken in any season which is open for antlerless moose only.

(7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. ~~Evidence of sex must be left attached to the hide of any black bear or mountain lion taken until the mandatory check requirement has been complied with.~~ Evidence of sex must be left naturally attached to the carcass of any big game animal ~~taken in a season restricted to antelope doe or fawn only, antlerless, female, antlered, or male animals only.~~
(7-1-98)(3-26-04)T

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND the horns or antlers must accompany the carcass while in transit.
(7-1-93)

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit.
(7-1-93)

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, antelope or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption.
(7-1-93)

d. The entire head of antlerless male elk, moose, deer, or antelope or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter until the carcass reaches the final place of storage or consumption. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles) must be left naturally attached to the carcass or to a hind quarter until the carcass reaches the final place of storage or consumption, AND the lower jaw must accompany the carcass while in transit.
(7-1-93)

e. For black bear and mountain lion external evidence of sex (either scrotum, penis or testicles for males, or vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with.
(7-1-98)

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02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. (7-1-93)

03. Evidence of Size. Any hunter taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. (7-1-93)

04. Other. The Department may designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

410. UNLAWFUL METHODS OF TAKE.

No person shall take big game animals as outlined in this section. (7-1-93)

01. Firearms. (7-1-93)

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. (7-1-93)

b. With any shotgun using any shot smaller than double-aught (#00) buck. (7-1-93)

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion. (7-1-93)

d. With a fully automatic firearm. (10-26-94)

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope. (3-30-01)

02. Bows, Crossbows, Arrows, Bolts, Chemicals or Explosives. (3-20-97)

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. (7-1-93)

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. (3-20-97)

c. With any chemicals or explosives attached to the arrow or bolt. (7-1-93)

d. With arrows or bolts having expanding broadheads. (7-1-93)

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- e.** With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. (7-1-93)
- f.** With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow. (3-30-01)
- g.** With any bow capable of shooting more than one (1) arrow at a time. (7-1-93)
- h.** With any compound bow with more than sixty-five percent (65%) let-off. (7-1-93)
- i.** With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than four hundred (400) grains. (3-20-97)
- j.** With an arrow less than twelve (12) inches from the broadhead to the nock inclusive. (3-30-01)
- k.** With an arrow wherein the broadhead does not proceed the shaft and nock. (3-30-01)
- l.** During an ARCHERY ONLY season, with any firearm, crossbow (except disabled archers), or other implement other than a longbow, compound bow, or recurve bow, or: (3-20-97)

 - i.** With any device attached that holds a bow at partial or full draw. (7-1-93)
 - ii.** With any bow or crossbow equipped with magnifying sights. (3-20-97)
- m.** During a TRADITIONAL ARCHERY ONLY season, with any firearm, crossbow, or other implement other than a longbow or recurve bow, or: (3-15-02)

 - i.** With an arrow not constructed of wood or fletched with non-natural material. (3-15-02)
 - ii.** With any bow equipped with sights. (3-15-02)
- n.** With any crossbow pistol. (3-20-97)
- 03. Muzzleloaders.** (7-1-93)

 - a.** With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, antelope, or mountain lion, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-93)
 - b.** With any electronic device attached to, or incorporated in, the muzzleloader. (3-30-01)
 - c.** During a MUZZLELOADER ONLY season, with any firearm, muzzleloading

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pistol or other implement other than a muzzleloading rifle or musket which: (7-1-93)

i. Is at least forty-five (.45) caliber for deer, antelope or mountain lion or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. (7-1-93)

ii. Is capable of being loaded only from the muzzle. (7-1-93)

iii. Is equipped only with open or peep sights. (7-1-93)

iv. Is loaded only with black powder or, Pyrodex or other synthetic black powder. (3-20-97)

v. Is equipped with no more than two (2) barrels. (7-1-93)

vi. Is loaded only with a projectile of at least four hundred twenty-eight (.428) caliber. (3-20-97)

vii. Is equipped only with flint, musket cap, or percussion cap. ~~(3-20-97)~~(3-26-04)T

d. During a TRADITIONAL MUZZLELOADER ONLY season, with any firearm other than a muzzleloader rifle or musket with an exposed hammer that pivots: (3-15-02)

i. Is loaded only with loose black powder or Pyrodex. (3-15-02)

ii. Is loaded only with a patched round ball projectile. (3-15-02)

04. Short-Range Weapon. During Short-Range Weapon ONLY seasons ONLY the following weapons may be used: (7-1-99)

a. With any shotgun using any slug or double-aught (#00) or larger buckshot. (7-1-99)

b. With any muzzleloader that is at least forty-five (0.45) caliber for deer, antelope, or mountain lion or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. (7-1-99)

c. With any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. (7-1-99)

05. Other. (7-1-93)

a. With electronic calls EXCEPT for the hunting of mountain lions in Units 41, 42 and that portion of Unit 12 north of State Highway 12 southwest of the Doe Creek Road (Forest Service Road 566) and northeast of Cabin Creek and Forest Service Road 486. (3-15-02)

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include liquid scent) to constitute an attraction or enticement, with the exception

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of applicable rules for the black bear baiting permit. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.17, "Rules Governing the Use of Bait for Taking Big Game Animals". (3-30-01)

c. With dogs, EXCEPT for mountain lion or black bear. See Rules of the Idaho Fish and Game Commission, IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment. (7-1-93)

e. ~~In Traditional Archery and Muzzleloader Hunts, the use of motorized vehicles shall be limited to public highways and improved highways which are open to public use.~~ Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule shall not apply to domestic cervidae which are lawfully privately owned elk, fallow deer, or reindeer. (3-15-02)(3-26-04)T

f. ~~In Unit 47, motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.~~ (3-20-04)

g. ~~Motorized vehicle use as an aid to hunting for wildlife is restricted to established roadways open to motorized traffic capable of travel by full-sized automobiles in identified hunts in Units 32, 32A, 48, 49, 50, 51, 58, 59, 59A, 70, 72, 73, 75, 77, and 78. The hunts with a motorized vehicle restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds.~~ (3-20-04)

411. MOTORIZED VEHICLE USE RESTRICTIONS.

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (3-26-04)T

01. Use Restriction. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (3-26-04)T

02. Exceptions. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (3-26-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a

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motorized vehicle as allowed by the land owner or manager. (3-26-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (3-26-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (3-26-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (3-26-04)T

03. Restricted Areas and Hunts. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation, which is published in a brochure available at department offices and license vendors. (3-26-04)T

04. Defined Terms. (3-26-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (3-26-04)T

b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (3-26-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (3-26-04)T

~~4142.~~ -- 419. (RESERVED).

420. MANDATORY CHECK AND REPORT REQUIREMENTS.

Any hunter killing black bear, Panhandle elk, moose, bighorn sheep or mountain goat, or mountain lion in a unit with no female lion quota must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any hunter killing mountain lion in a unit with a female quota must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL, comply with the mandatory check and report requirements by: (4-5-00)

01. Harvest Report. Completing the relevant harvest report (big game mortality report, ~~Panhandle mandatory elk report~~, or other report form as required) for the species taken. (7-1-93)(3-26-04)T

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02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: (7-1-93)

a. Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

b. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. No person shall have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-93)

c. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. (7-1-93)

d. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. (7-1-93)

e. Mountain Goat: Horns to be presented to a conservation officer or regional office. (7-1-93)

~~**f.** Panhandle Elk: (Elk killed in Units 1, 2, 3, 4, 4A, 5, 6, 7, or 9), head or lower jaw to be presented to conservation officer, regional office, official check point or check station. (7-1-93)~~

03. Authorized Representative. A hunter may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas for Big Game. Hunting, killing, or molesting of any big game animal is prohibited in the following areas: (7-1-93)

a. Craters of the Moon National Monument and Preserve in Blaine and Butte Counties; the boundary of the Craters of the Moon National Monument was recently greatly enlarged by Presidential Proclamation. ~~Approximately 410,512 acres of the expansion will be primarily managed by the National Park Service which has stated its intention to close this area to hunting. The state of Idaho strongly opposes this action and is working to keep this area open to hunting in accordance with the language in the Presidential Proclamation which assures continued jurisdiction over wildlife by the state of Idaho. This issue remains unresolved. All of the~~

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lands added to the Monument and Preserve remain open to hunting, while lands within the former National Monument remain closed to hunting. It is the hunter's responsibility to check the current status of open/closed area boundaries prior to hunting. ~~(3-15-02)~~(3-26-04)T

b. All state parks, EXCEPT Farragut State Park that has a November/December deer archery season, Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve are all open to hunting; ~~(7-1-93)~~(3-26-04)T

c. ~~All state land within City of Rocks National Reserve in Unit 55;~~ Harriman State Park Wildlife Refuge. ~~(7-1-93)~~(3-26-04)T

~~**d.** Idaho National Engineering and Environmental Laboratory (INEEL) site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties, EXCEPT as modified in General A Tag hunt in the Big Desert Zone, elk controlled hunt areas 51-1, 51-2, 51-3, and 51-4 and antelope controlled hunt areas 51-2, 63-1 and 63-2.~~ ~~(4-5-00)~~

ed. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

fe. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and ~~then along Warm Springs Avenue and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits;~~ ~~(7-1-99)~~(3-26-04)T

gf. Yellowstone National Park in Fremont County; (7-1-93)

hg. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action; (7-1-93)

ih. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges; and, (7-1-93)

ji. All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. (7-1-93)

kj. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River. The upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river. (3-20-97)

02. Mountain Lions. Mountain lion may not be hunted or pursued within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. (7-1-93)

03. Black Bear. Black bear may not be hunted or pursued within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. (7-1-93)

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IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0109-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season setting and rule adjustments for upland game birds. It established a motorized vehicle use restriction for upland game bird hunting in identified units, and established an area closed to hunting at Mann's Lake in Nez Perce County. It set a ten o'clock (10:00) AM start of shooting hours on certain Wildlife Management Areas.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 280 through 292.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a),

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Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: Biennial season setting and rule adjustment for upland game birds. Establish a motorized vehicle use restriction for upland game bird hunting in identified units. Establish an area closed to hunting at Mann's Lake in Nez Perce County. Set a 10 a.m. start of shooting hours on certain Wildlife Management Areas.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The temporary rule confers a benefit to hunters and allows the hunting seasons to continue uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons without interruption and to publish the Upland Game Bird Seasons Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter, Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut - P.O. Box 25, Boise, Idaho 83707
(208) 334-3715 / Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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300. UPLAND GAME BIRD METHODS OF TAKE.

01. Taking of Upland Game Birds. No person shall take upland game birds: (7-1-93)

a. Except wild turkey, from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. Pheasants shall not be taken before twelve o'clock noon on the opening day in certain counties (see Rule 11, Pheasant Seasons). Wild turkey shall not be taken between sunset and one-half (1/2) hour before sunrise. Pheasants shall not be taken before 10 a.m. after the opening day on the Fort Boise, Montour, Payette River and C.J. Strike Wildlife Management Areas. ~~(7-1-93)~~(4-28-04)T

b. With a trap, snare, net, crossbow, or firearms EXCEPT a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, slingshot, hand-held or thrown missiles, EXCEPT forest grouse. Forest grouse shall not be taken with a trap, snare, net, or crossbow. (3-30-01)

c. From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or if the boat is drifting naturally, or if it is propelled only by paddle, oars, or pole, or if it is beached, moored, or resting at anchor. (7-1-93)

d. By the use or aid of any electronic call. (7-1-93)

e. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. (7-1-93)

02. Wild Turkey. In addition to the methods listed above, wild turkey may not be taken: (7-1-93)

a. With lead shot exceeding BB size. (7-1-93)

b. With steel shot exceeding T size. (7-1-93)

c. By the use of dogs, except during fall hunts. (3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

302. MOTORIZED VEHICLE USE RESTRICTIONS.

The use of motorized vehicles by hunters as an aid to hunting game birds is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. (4-28-04)T

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01. Use Restriction. In designated areas and hunts, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. Any other use by hunters is prohibited. All off-road use by hunters is prohibited. (4-28-04)T

02. Exceptions. This use restriction rule shall not apply to the following permissible motorized vehicle uses: (4-28-04)T

a. Holders of a valid Handicapped Persons Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. (4-28-04)T

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. (4-28-04)T

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters shall not hunt while packing camping equipment. (4-28-04)T

d. Private landowners, their authorized agents and persons with written landowner permission may use a motorized vehicle on their private land; however, they may not hunt from or by the use of any motorized vehicle as prohibited by Section 36-1101(b)(1), Idaho Code. (4-28-04)T

03. Restricted Areas and Hunts. This motorized vehicle use restriction shall apply to identified areas and hunts in all Big Game Management Units. The hunts and areas with a motorized vehicle use restriction are identified in the Commission's Big Game Season Proclamation and Upland Game Bird Season Proclamation, which are published in a brochure available at department offices and license vendors. (4-28-04)T

04. Defined Terms. (4-28-04)T

a. A full-sized automobile shall be defined as any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. (4-28-04)T

b. An established roadway shall be defined as any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. (4-28-04)T

c. A hunter shall be defined as a person engaged in the activity of hunting as defined in Section 36-202(j), Idaho Code. (4-28-04)T

3023. -- 399. (RESERVED).

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

01. General. Hunting, killing, or molesting of any game bird is prohibited in the

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following areas: (7-1-93)

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion of the Monument by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area.

~~(7-1-93)~~(4-28-04)T

b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)

c. Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. (5-3-03)

f. Yellowstone National Park in Fremont County. (7-1-93)

g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)

h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). (5-3-03)

i. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)

j. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

02. Migratory Game Birds. In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)

a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within

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three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)

b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. (7-1-93)

c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. (7-1-93)

d. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake. (3-15-02)

e. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. (7-1-93)

f. Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river. (7-1-93)

g. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. (7-1-98)

h. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. (7-1-93)

03. Geese. Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas: (7-1-93)

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a. Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

b. Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. (12-7-94)

c. Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. (7-1-93)

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(BREAK IN CONTINUITY OF SECTIONS)

600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.

The following seasons, bag and possession limits shall apply: (10-26-94)

01. Area 1. Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

~~a. Area 1 annual season begins the second Saturday of October and lasts through December 31.~~ (7-1-98)

~~b. Area 1 daily bag limit is three (3) cocks.~~ (7-1-93)

~~c. Area 1 possession limit after the first day of the season is six (6) cocks.~~ (7-1-93)

02. Area 2. Area 2 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Minidoka, Oneida, Power, Twin Falls, and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 2 annual season begins at noon on the third Saturday of October and lasts through November 30.~~ (7-1-99)

~~b. Area 2 daily bag limit is three (3) cocks.~~ (5-3-03)

~~c. Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County, Cartier Wildlife Management Area in Madison County, and Sterling Wildlife Management Area in Bingham County is four (4) cocks.~~ (3-30-01)

03. Area 3. Area 3 includes Ada, Adams, Boise, Blaine, Camas, Canyon, Elmore, Gem, Gooding, Jerome, Lincoln, Owyhee, Payette, Twin Falls, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 3 annual season begins at noon (12:00 pm) on opening day, the third Saturday of October, and lasts through December 31.~~ (7-1-99)

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~~**b.** Patch and Porter Islands: Opening Date is the third Saturday of October. Closing Dates: (Will be the same as those set for these areas by the Oregon Fish and Game Commission. Check with Idaho regional offices for dates or see Oregon small game regulations.) (10-26-94)~~

~~**c.** Area 3 daily bag limit is three (3) cocks. (5-3-03)~~

~~**d.** Area 3 possession limit after the first day of the season is six (6) cocks. (5-3-03)~~

04. WMA Pheasant Permit. (10-26-94)

a. Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on ~~any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03~~ Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Pheasant Permit in his or her possession. ~~(3-30-01)(4-28-04)T~~

b. Permit Limit. The WMA Pheasant Permit limit is six (6) cocks. Additional permits may be purchased. (5-3-03)

c. Recording Harvest. Any person harvesting a pheasant on any of the Wildlife Management Areas listed in Subsections ~~600.02~~4.a. ~~and 600.03~~ must immediately record their harvest, in writing, on the back of their permit. ~~(3-30-01)(4-28-04)T~~

05. Youth Pheasant Season. This season shall be open statewide. (7-1-99)

a. ~~The Youth Pheasant Season begins on the first weekend of October and lasts two (2) days. In Areas 2 and 3 listed under this section, the season begins at noon.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-99)(4-28-04)T~~

b. The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. One (1) adult may take more than one (1) youth hunter. (5-3-03)

~~**c.** The Youth Pheasant Season daily bag is three (3) cocks. (5-3-03)~~

~~**d.** The Youth Pheasant Season possession limit after the first day of the season is six (6) cocks. (5-3-03)~~

601. CHUKAR PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits apply statewide: (3-30-01)~~

01. ~~Season.~~ ~~Annual season begins the third Saturday of September and lasts through January 15.~~ **Area 1.** Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the

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Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

02. ~~Limit. Daily bag limit is eight (8).~~ **Area 2.** Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

03. ~~Possession Limit. Possession limit after the first day of the season is sixteen (16).~~ **Area 3.** Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owyhee County east of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

602. GRAY PARTRIDGE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits apply statewide:~~

~~(3-30-01)~~

01. ~~Season. Annual season begins the third Saturday of September and lasts through January 15.~~ **Area 1.** Area 1 includes, Ada, Adams, Benewah, Boise, Bonners, Boundary, Canyon, Clearwater, Gem, Idaho, Kootenai, Latah, Lewis, Nez Perce, Payette, Shoshone, Valley, Washington, Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then

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north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

02. ~~Limit. Daily bag limit is eight (8).~~ **Area 2.** Area 2 includes, Lemhi County, not including Birch Creek Valley, and Custer County in the Salmon River drainage. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

03. ~~Possession Limit. Possession limit after the first day of the season is sixteen (16).~~ **Area 3.** Area 3 includes, Fremont, Clark, Lemhi County within Birch Creek Valley, Custer County within the big Lost Valley and the Little Lost Valley, Blaine, Camas, Owyhee County east of the following boundary; beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ ~~(10-26-94)~~

01. **Area 1.** Area 1 includes Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton Counties. Season for quail in Area 1 is CLOSED. (5-3-03)

02. **Area 2.** Area 2 includes Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, ~~Camas,~~ Canyon, ~~Cassia,~~ Clearwater, ~~Elmore,~~ Gem, ~~Gooding,~~ Idaho, ~~Jerome,~~ Kootenai, Latah, Lewis, ~~Lincoln,~~ ~~Minidoka,~~ Nez Perce, ~~Owyhee,~~ Payette, Shoshone, ~~Twin Falls,~~ Valley, ~~and~~ Washington ~~Counties,~~ Owyhee County west of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway

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51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County west of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(5-3-03)~~(4-28-04)T

~~a. Area 2 annual season begins the third Saturday of September and lasts through December 31.~~ ~~(7-1-99)~~

~~b. Area 2 daily bag limit is ten (10) of any kind.~~ ~~(7-1-98)~~

~~c. Area 2 possession limit after the first day of the season is twenty (20) of any kind.~~ ~~(7-1-98)~~

03. Area 3. Area 3 includes Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls counties, and also included is that portion of Owyhee County east of the following boundary: beginning at the Idaho-Nevada border and the Jarbidge River, then north along the Jarbidge River to its confluence with the Bruneau River, then north along the Bruneau River to Bruneau, then north on State Highway 51 to the Owyhee-Elmore county line. Also included, is that portion of Elmore County east of the following boundary: beginning at State Highway 51 and the Owyhee-Elmore County line, then north on State Highway 51 to Interstate 84, then north on U.S. Highway 20 to the Anderson Ranch Dam Road (Forest Service Road 134), then up the center of Anderson Ranch Reservoir to the confluence of Fall Creek, then up Forest Service Road 129 to its junctions with Forest Service Road 156, then southeast on Forest Service Road 156 to Rocky Bar, then northeast on Forest Service Road 126 to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(4-28-04)T~~

604. FOREST GROUSE (BLUE, RUFFED, AND SPRUCE).

~~The following seasons, bag and possession limits apply statewide.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(10-26-94)~~(4-28-04)T

~~01. Season. September 1 through December 31, annually.~~ ~~(10-26-94)~~

~~02. Limit. Daily bag limit is four (4) of any kind.~~ ~~(7-1-98)~~

~~03. Possession Limit. Possession limit after the first day of the season is eight (8) of~~

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~~any kind.~~ (7-1-98)

605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ (5-16-94)

01. Area 1. Ada, Adams, Benewah, Blaine County within the Salmon River drainage, Boise, Bonner, Boundary, Canyon, Cassia County south of Interstate 86 and east of Interstate 84, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore County EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Payette, Power County south of Interstate 86, Shoshone, Valley, and Washington counties—~~CLOSED~~. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

02. Area 2. Bannock, Bear Lake, Bingham, Blaine County east of the Arco-Minidoka road, Bonneville, Butte County south of US Highways 20/26 and 22/33 and the entire Birch Creek drainage, Caribou, Cassia EXCEPT that portion south of Interstate 86 and east of Interstate 84, Clark, Franklin, Fremont, Jefferson, Lemhi County within the Birch Creek drainage, Madison, Oneida EXCEPT that portion north and east of Interstate 84, Owyhee County north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee County east of the Bruneau River, Power County north of Interstate 86, Twin Falls and Teton County north of Interstate 86, Twin Falls and Teton counties. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

~~a. Area 2 annual season begins the third Saturday of September and lasts seven (7) days.~~ (7-1-98)

~~b. Area 2 daily bag limit is one (1).~~ (7-1-98)

~~c. Area 2 possession limit after the first day of the season is two (2).~~ (7-1-98)

03. Area 3. Blaine County EXCEPT that part within the Salmon River drainage and that part east of the Arco-Minidoka Road, that part of Butte County north of US Highway 22/33 not within the Birch Creek drainage, and that part west of the Arco-Minidoka Road, Camas, Custer County EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore County south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi County EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee County south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (5-3-03)(4-28-04)T

606. SHARP-TAILED GROUSE SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits shall apply:~~ (5-16-94)

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01. Area 1. Area 1 includes the following counties or portions of counties: Ada, Adams, Bannock County west of Interstate 15 and north of Interstate 86, Benewah, Bingham County west of Interstate 15, Blaine, Boise, Bonner, Bonneville County west of Interstate 15, Boundary, Butte, Camas, Canyon, Cassia County west of Interstate 84 north of the Malta-Sublett Road and west of the Malta-Strevell Road, Clark County west of Interstate 15, Clearwater, Custer, Elmore, Gem, Gooding, Idaho, Jefferson County west of Interstate 15, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, Power County north of Interstate 86, Shoshone, Twin Falls, Valley, and Washington County. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

(~~5-16-94~~)(4-28-04)T

~~a. Season for sharp-tailed grouse in Area 1 is CLOSED.~~

(~~5-16-94~~)

02. Area 2. Area 2 includes the following counties or portions of counties: Bingham County east of Interstate 15, Bonneville County east of Interstate 15, Clark County east of Interstate 15, Fremont, Jefferson County east of Interstate 15, Madison, Teton County, Bannock County east of Interstate 15 and south of Interstate 86, Bear Lake County, Caribou County, Cassia County east of Interstate 84 and that portion west of Interstate 84 south of the Malta-Sublett Road and east of the Malta-Strevell Road, Franklin County, Oneida County, and Power County south of Interstate 86. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

(~~3-30-01~~)(4-28-04)T

~~a. Area 2 annual season begins October 1 and lasts through October 31.~~ (~~3-30-01~~)

~~b. Area 2 daily bag limit is two (2).~~ (~~5-16-94~~)

~~c. Area 2 possession limit after the first day of the season is four (4).~~ (~~5-16-94~~)

(BREAK IN CONTINUITY OF SECTIONS)

616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits, and permits shall apply:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors.

(~~7-1-98~~)(4-28-04)T

01. Controlled Hunts. Controlled hunt areas include the following: (7-1-98)

a. Area 1 includes all of Bear Lake County and all of Caribou County EXCEPT that portion downstream from the dam at Alexander Reservoir south of U.S. Highway 30, and that portion lying within the Grays Lake Basin. (5-3-03)

b. Area 2 includes all of Teton County. (5-3-03)

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- c. Area 3 includes all of Fremont County. (5-3-03)

02. Controlled Hunt Seasons, Bag and Possession Limits, and Permits.

HUNT AREA	HUNT NUMBER	SEASON	PERMITS
1	9501	September 1-2	80
1	9502	September 3-5	80
1	9503	September 6-8	35
1	9504	September 9-11	35
1	9505	September 12-15	33
1	9506	September 1-7	40
1	9507	September 8-15	35
2	9508	September 1-7	40
2	9509	September 8-15	35
NOTE: Daily limit is two (2) for all hunts. The season limit is nine (9).			

(5-3-03)

617. -- 619. (RESERVED).

620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.

- 01. General Hunts.** General hunts include the following: All of Nez Perce County
EXCEPT: (5-3-03)

a. Mann Lake closure in Lewiston Orchards. This includes all of the lake and three hundred (300) yards beyond the Bureau of Reclamation property encompassing the lake. (5-3-03)

b. Lewiston Preserve along the Clearwater River from Lewiston City limits to Spalding between Highway 12-95 on the north side of the river and the Camas Prairie Railroad on the south side. (5-3-03)

c. Lewiston City limits on the Clearwater River and the Snake River. (5-3-03)

d. Hellsgate State Park along the Snake River from the north end of the park upstream to the basalt bluffs opposite Asotin. (5-3-03)

02. General Hunt Seasons, Bag and Possession Limits, and Permits. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (~~7-1-98~~)(4-28-04)T

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- ~~a. Season: September 7, 2002 through September 13, 2002. (5-3-03)~~
- ~~b. Possession limit after the first day of the season: Eight (8). (7-1-98)~~
- ~~c. Daily bag limit: Four (4). (7-1-98)~~

(BREAK IN CONTINUITY OF SECTIONS)

900. MIGRATORY GAME BIRD SEASONS, BAG AND POSSESSION LIMITS.

~~The following season, bag, and possession limits shall apply to each species as follows: (7-1-93)~~

01. Mourning Dove. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-93)(4-28-04)T~~

~~a. The following season dates apply STATEWIDE: September 1 through September 30, annually. (10-26-94)~~

~~b. Daily bag limit is ten (10). (7-1-93)~~

~~c. Possession limit after the first day of the season is twenty (20). (7-1-93)~~

02. Ducks Including Mergansers and American Coot. (7-1-93)

a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the

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Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

03. Common Snipe. (7-1-93)

a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and all lands, including private holdings, within the Fort Hall Indian Reservation. (3-30-01)

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. (3-30-01)

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. (3-30-01)

d. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

04. Geese Including Dark Geese - Black Brant, Canada, Emperor, and White-Fronted, and Light Geese - Ross' and Snow. (9-1-93)

a. Area 1 includes the following counties: Benewah; Bonner; Boundary; Clearwater; Idaho; Kootenai; Latah; Lewis; Nez Perce; and Shoshone Counties. (9-1-93)

b. Area 2 includes the following counties or portions of counties: Ada; Adams; Boise; Canyon; those portions of Elmore north and east of Interstate 84, and south and west of Interstate 84 west of State Highway 51, EXCEPT that portion within the Camas Creek drainage; Gem; Owyhee west of State Highway 51; Payette; Valley; and Washington Counties. (9-1-93)

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c. Area 3 includes the following counties or portions of counties: Blaine; Camas; Cassia; those portions of Elmore south of Interstate 84 east of State Highway 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of State Highway 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls Counties. (7-1-99)

d. Area 4 includes the following counties or portions of counties: Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville; Butte; Caribou EXCEPT the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; and Teton Counties. EXCEPT, Fremont and Teton Counties are CLOSED to the taking of light geese. (7-1-99)

e. Area 5 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. (7-1-93)

f. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

05. Youth Waterfowl Hunting Day. (7-1-98)

a. The youth waterfowl hunting day is open only to youth from twelve (12) through fifteen (15) years of age. Any youth participating must: (7-1-98)

i. Have in his or her possession the appropriate, valid hunting license. (The Idaho Migratory Waterfowl Stamp and the Federal Migratory Bird stamp are not required (Idaho Code 36-414; Title 50 Code of Federal Regulations, Part 20)). (7-1-98)

ii. Be accompanied in the field at all times by at least one (1) adult eighteen (18) years of age or older, having in his or her possession a valid hunting license. (7-1-98)

b. Please see the Waterfowl brochure, which contains the Commission's proclamation setting seasons, bag and possession limits. (3-30-01)

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IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.11 - RULES GOVERNING FISH

DOCKET NO. 13-0111-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules made biennial season settings and rule adjustments for fishing. It clarifies the definitions of float tube and snagging, and clarify steelhead and salmon rules.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 294 through 303.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is December 8, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial season setting and rule adjustment for fishing. Clarify the definitions of float tube and snagging. Clarify steelhead and salmon rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to fishermen and allows the fishing seasons to continue uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the fishing seasons without interruption and to publish the Fishing Seasons Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fred Partridge (208) 287-2773.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 20th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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004. DEFINITIONS.

For the purposes of this chapter, the following terms will be defined as follows: (3-20-97)

01. Artificial Fly. Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. (3-20-97)

02. Artificial Lure. Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. No bait of any kind may be used with artificial lures when fishing artificial flies and lures-only waters. (3-20-97)

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day. The term “bag limit” shall be construed to be an individual, independent effort and shall not be interpreted in any manner as to allow one (1) individual to take more than his “bag limit” toward filling the “bag limit” of another. The bag and possession limits are equal except for salmon and steelhead. (3-20-97)

04. Bait. Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. (Live fish prohibited.) (See: Subsection 004.20 - NO BAIT.) (3-20-97)

05. Barbless Hook. A fish hook without barbs or on which barbs have been bent completely closed. (3-20-97)

06. Catch-And-Release. A fishing restriction applied to a body of water requiring that all game fish, except whitefish and brook trout, must be released immediately, unharmed, back to the water. Only artificial flies or lures with one (1) barbless hook may be used in waters designated catch-and-release; bait is prohibited. It is permissible to use up to five (5) flies or lures, each with only one (1) barbless hook, per line. Whitefish and brook trout landed from catch-and-release waters may be retained in possession. (3-20-97)

07. Closed To Harvest. Effort, by permitted methods, to catch or attempt to catch a fish or group of fish is lawful, with the restriction that any fish or group of fish so caught must be released immediately back to the water. (3-20-97)

08. Confluence Of A Stream Or River. The point where two (2) rivers or streams come together. (3-20-97)

09. Electric Motors Only. When fishing waters listed “electric motors only”, gas (internal combustion) motors may be attached to the boat; but use of the gas motor is prohibited. (3-20-97)

10. Fishing. Any effort made to take, kill, injure, capture, or catch any fish, crayfish, or bullfrog. (3-20-97)

11. Float Tube. A floating device ~~which~~ that suspends a single occupant, ~~with his/her body~~ from the ~~waist~~ seat down, in the water, and is not propelled by oars, paddles, or motors.

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~~(3-20-97)~~(12-8-03)T

12. **Fly Fishing.** Fishing with a fly rod, fly reel, fly line, and artificial fly. (3-20-97)
13. **Game Fish.** Brook, brown, bull (Dolly Varden), cutthroat, golden, lake (Mackinaw), rainbow (including steelhead), splake and sunapee trout; trout hybrids; ~~e~~Chinook, coho, Atlantic and kokanee (blueback) salmon; grayling; whitefish; cisco; crappie; perch; bass; catfish; bullheads; sunfish; sturgeon; northern pike; tiger muskie; walleye and sauger; and burbot (ling). Bullfrogs and crayfish are also defined as game fish. ~~(3-20-97)~~(12-8-03)T
14. **Harvest.** Reduce a fish to possession. (3-20-97)
15. **Hook.** A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically prohibited. (3-20-97)
16. **Ice Fishing.** Fishing through an opening broken or cut through the ice. (3-20-97)
17. **Length.** The length between the tip of the nose or jaw and the tip of the tail fin. (3-20-97)
18. **Motor.** Includes electric and internal combustion motors. (See Subsection 004.09 - Electric Motors Only.) (3-20-97)
19. **Mouth Of River Or Stream.** The place where a river or stream enters a larger body of water. (3-20-97)
20. **No Bait.** Requires the use of artificial flies or lures, with one (1) barbless hook ONLY per fly or lure. (3-20-97)
21. **No Motors.** Fishing from a boat with a motor attached is prohibited. (3-20-97)
22. **Possession Limit.** Maximum number of fish that may be lawfully in possession of any person. "Possession limit" shall apply to fish while in the field or being transported to the final place of consumption or storage. (3-20-97)
23. **Reservoir.** The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. (3-20-97)
24. **Season Limit.** The maximum number of fish that may be lawfully taken in any declared season. (3-20-97)
25. **Snagging.** Taking or attempting to take a fish by ~~hooking other than in the mouth or head~~ use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. Game fish which are hooked other than in the ~~head~~ jaw or mouth must be released immediately. ~~(3-20-97)~~(12-8-03)T

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26. Steelhead. Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Lemhi and the Pahsimeroi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam, and lakes). Rainbow trout longer than twenty (20) inches in length with the adipose fin ~~missing~~ clipped (as evidenced by a healed scar) are defined as steelhead in the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam during steelhead seasons. ~~(3-20-97)~~(12-8-03)T

27. Tributary. A stream flowing into a larger stream or lake. (3-20-97)

28. Trout. Includes the following trout family fishes: brook, brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow, splake, Sunapee; trout hybrids; and the landlocked forms of Chinook, coho, Atlantic and kokanee (blueback) salmon. (12-8-03)T

289. Unattended Line. A line not under the immediate surveillance by the angler. (3-20-97)

2930. Unprotected Nongame Fish. All fish species other than game fish and protected species of special concern. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

201. FISHING METHODS AND GEAR.

Unless modified by a regional exception, the following fishing methods and restrictions are applicable in all Idaho waters. (3-20-97)

01. Archery And Spear Fishing. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of bullfrogs and unprotected nongame fish, and only in those waters during the season set for the taking of game fish. (7-1-99)

02. Bait Restricted. It is unlawful to fish with bait in waters designated as artificial flies and lures only, fly fishing only, no bait, or catch-and-release. (3-20-97)

03. Barbed Hooks. It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. It is unlawful to fish in artificial flies and lures only waters, or catch-and-release waters with barbed hooks. (3-20-97)

04. Fishing Gear. It is unlawful to fish in any waters of Idaho with more than one (1) handline or pole with a line attached, except a person with a two (2) pole validation may use two (2) poles; or with more than five (5) lines while ice fishing; or by archery, spearfishing, snagging, hands, and netting except as permitted. Not more than five (5) hooks may be attached per line. The line or lines must be attended by the person fishing. ~~(3-20-97)~~(12-8-03)T

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05. Fishing Shelters. Any enclosure or shelter which is left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. (7-1-99)

06. Gaff Hook. It is unlawful to land fish of any species with a gaff hook except through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species. (3-20-97)

07. Molesting Fish. It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. (3-20-97)

08. Snagging. It is unlawful to snag game fish, unless otherwise stated by Commission rules/exceptions. Snagging of unprotected nongame fish species is permitted. (3-20-97)

09. Trapping And Seining Minnows Or Crayfish. It is lawful to take the young of unprotected nongame fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided the seine or net does not exceed four (4) feet in length or width, and the minnow or crayfish trap does not exceed eighteen (18) inches in length or twelve (12) inches in diameter or width. If the trap is of irregular dimension, but its volume does not exceed the volume of an eighteen by twelve by twelve inches (18"x12"x12") trap, it is also lawful to use. All fish so taken must immediately be killed except where stated otherwise. All traps must have a tag attached bearing the owner's name and address. Minnows and crayfish may only be taken during the season set for the taking of game fish in those waters. (3-20-97)

10. Use Of Bait. It is unlawful to use live fish as bait, except that live crayfish and bull frogs may be used if caught on the body of water being fished. (3-20-97)

11. Use Of Hands. It is lawful to take bull frogs and crayfish with the hands. (3-20-97)

202. BAG AND POSSESSION LIMITS.

01. Bag Limit. Maximum number of fish that may be lawfully taken by one (1) person in one (1) day. The bag and possession limits are equal, except where listed in region exceptions and for salmon and steelhead. (3-20-97)

02. Possession Limit. Maximum number of fish that may be lawfully in possession of any one (1) person. Possession limit shall apply to fish while in the field or being transported. All fish that are hooked, landed and not immediately released shall be counted in the possession limit of the person hooking the fish. (3-20-97)

03. Transport Or Gift. No person shall transport for another or accept as a gift any game fish unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. (7-1-99)

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04. Table On Bag And Possession Limits For Specified Fish.

SPECIES	BAG AND POSSESSION LIMITS	
BASS - Largemouth and Smallmouth	5 <u>6</u>	In the aggregate of both species, NONE under 12 inches.
BROOK TROUT	40 <u>25</u>	In addition to the trout limit on any water.
BULL TROUT (Dolly Varden)	NONE	There is no harvest season for bull trout. Any bull trout caught may not be removed from the water and must be released immediately.
BURBOT (Ling)	NONE	There is no harvest season for burbot. Any burbot caught may not be removed from the water and must be released immediately.
NORTHERN PIKE	5 <u>6</u>	
SALMON (Anadromous)		See Rules 500 to 599
STEELHEAD		See Rules 400 to 499
STURGEON	NONE	There is no harvest season for sturgeon. Any sturgeon caught may not be removed from the water and must be released immediately. Barbless hooks required.
TIGER MUSKIE	2	NONE under 34 40 inches.
TROUT - includes the following trout family fishes brook, brown, cutthroat, golden, grayling, lake, (Mackinaw), rainbow, splake, sunapee; trout hybrids; and the landlocked forms of chinook, coho, Atlantic and kokanee (blueback) salmon.	6	In the aggregate of all species (see Magic Valley Southeast, Upper Snake regions for special cutthroat trout restrictions).
WALLEYE and SAUGER	5 <u>6</u>	In the aggregate of both species.
WHITEFISH	50 <u>25</u>	50
NONGAME SPECIES OF SPECIAL CONCERN - Shoshone, Wood River and Bear Lake sculpin, sand-roller, leatherside chub, Pacific lamprey.	NONE	May not be taken or possessed.
All Species other than those listed above.	NO LIMIT	

~~(7-1-99)~~(12-8-03)T

05. Family Fishing Waters. Waters designated as Family Fishing Waters shall have a year round season: a general bag limit for trout, bass, walleye and pike; no length limits; and allow the use of standard fishing gear. Pursuant to Section 36-105(3), Idaho Code, the Commission sets seasons and regional exceptions, including designated Family Fishing Waters, by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (12-8-03)T

056. Special Limits. No person shall fish in any waters while having fish in possession in excess of the limits for those waters. (7-1-99)

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203. -- 298. (RESERVED).

299. TWO POLE BAG AND POSSESSION LIMITS, SEASONS, WATERS, AND METHODS OF GEAR.

01. Bag And Possession Limits. Holders of the two (2) pole validation shall have the same bag and possession limit as the general bag and possession limits and regional exceptions whether using one (1) or two (2) poles. Please see Fishing brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits, and regional exceptions. (3-30-01)

02. Seasons. The two (2) pole validation shall only be valid on waters which are open to fishing under the general fishing seasons and regional exceptions, ~~except two (2) poles or rods shall not be used to fish for adult anadromous fish (salmon or steelhead).~~ (7-1-99)(12-8-03)T

03. Waters. The two (2) pole validation is valid on all waters open to fishing under general rules and regional exceptions, ~~except not valid for adult anadromous fish.~~ (7-1-99)(12-8-03)T

04. Methods And Gear. The restrictions of Section 201 shall apply to the use of two (2) poles under the two (2) pole validation, except for the number of handlines or poles. (7-1-99)

300. GENERAL FISHING SEASONS.

The following general seasons apply to all waters of the state, except as listed in "Regional Exceptions". (3-20-97)

01. Lakes, Ponds And Reservoirs (Including Alpine Lakes). Extends ONLY to the edge of flat waters, excluding small, unnamed irrigation diversion ponds, beaver ponds and mill ponds.

OPEN ALL YEAR (3-20-97)

02. Ditches And Canals. Man-made structures used to transport water for irrigation or hydropower purposes.

OPEN ALL YEAR (3-20-97)

03. Rivers And Streams. Small, unnamed irrigation diversion ponds, beaver ponds and mill ponds have the same season as the river or stream on which they are located.

Saturday of Memorial Day Weekend through November 30

~~2000: May 27 - November 30~~

~~2001: May 26 - November 30~~

(3-30-01)(12-8-03)T

04. General Whitefish Season. Fishing gear or bait restrictions which apply to a river or stream section during the season open for other species apply during the whitefish season.

~~2000: January 1 - March 31 and: May 27 - December 1 - December 31~~

~~2001: January 1 - March 31 and: May 26 - December 31~~

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NOTE: Whitefish or brook trout may also be taken in any waters during seasons open for other species, including reduced bag limit or size restricted waters, closed to harvest, and catch-and-release waters. (3-30-01)(12-8-03)T

05. General Steelhead Season. See Rule Sections 400 through 499. (3-20-97)

06. General Salmon Season. See Rule Sections 500 through 599. (12-8-03)T

067. Bullfrogs, Crayfish And Nongame Fish. Bullfrogs, crayfish, and nongame fish may be taken ONLY during the season set for the taking of game fish in those waters. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

401. STEELHEAD DEFINITION.

See Subsection 004.26.

(12-8-03)T

~~**01. Steelhead.** Rainbow trout longer than twenty (20) inches in length in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage (excluding lakes and the Pahsimeroi and Lemhi rivers), and the Clearwater River drainage (excluding that portion above Dworshak Dam and lakes). In the Snake River from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River from its mouth upstream to Barber Dam, and in the Payette River from its mouth upstream to Black Canyon Dam, during steelhead seasons, rainbow trout longer than twenty (20) inches in length with the adipose fin missing (as evidenced by a healed scar) are defined as steelhead.~~ (3-20-97)

402. STEELHEAD LICENSES, TAGS AND PERMITS.

01. Licenses. Any person fishing for steelhead, except those expressly exempt, must have in his or her possession a valid fishing license and a steelhead permit. ~~Any person who does not qualify as a resident must purchase either a Nonresident Three Day Fishing License with Steelhead Permit or a nonresident season fishing license and a full season steelhead permit.~~

(3-20-97)(12-8-03)T

02. Permits. Any person fishing for, reducing to possession, or catching and releasing steelhead must have a valid steelhead permit in his or her possession. However, when a steelhead is immediately released unharmed, as in no harvest fishing, the angler is not required to make an entry on the permit. (3-20-97)

403. PERMIT VALIDATION.

When a steelhead trout has been hooked, landed, and reduced to possession, the angler hooking the fish must immediately do the following: (3-20-97)

01. Permit. Completely remove one (1) numbered notch from the permit. (3-20-97)

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02. Number Code. Look up the number code from the location code list and write it in the space provided.

RIVER LOCATION CODES	
SNAKE RIVER	
Snake River, below <u>downstream from</u> Salmon River	01
Snake River, above <u>upstream from</u> Salmon River	02
Snake River, <u>Hells Canyon Dam to Oxbow Dam</u>	27
CLEARWATER RIVER	
Clearwater River, below <u>downstream from</u> Orofino Bridge	03
Clearwater River, above <u>upstream from</u> Orofino Bridge	04
North Fork Clearwater River	05
South Fork Clearwater River	07
SALMON RIVER	
Salmon River, below <u>downstream from</u> Whitebird Creek	10
Salmon River, Whitebird Creek to Little Salmon	11
Salmon River, Little Salmon to Vinegar Creek	12
Salmon River, Vinegar Creek to South Fork	13
Salmon River, South Fork to Middle Fork	14
Salmon River, Middle Fork to North Fork	15
Salmon River, North Fork to Lemhi River	16
Salmon River, Lemhi River to Pahsimeroi River	17
Salmon River, Pahsimeroi River to East Fork	18
Salmon River, above <u>upstream from</u> the East Fork	19
OTHER	
Little Salmon River	20
<u>Panther Creek</u>	<u>24</u>
Boise River	28
Payette River	29

~~(3-20-97)~~(12-8-03)T

03. Date Entry. Enter the month and day the fish was caught ~~(3-20-97)~~(12-8-03)T

(BREAK IN CONTINUITY OF SECTIONS)

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DEPARTMENT OF FISH AND GAME Rules Governing Fish

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405. STEELHEAD METHODS OF TAKE.

01. Hooks. Steelhead may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams.

(3-20-97)(12-8-03)T

02. Snagging. No person shall kill or retain in possession any steelhead which has been hooked other than in the head mouth or jaw. Any steelhead hooked other than in the head mouth or jaw must be immediately released unharmed.

(3-20-97)(12-8-03)T

03. Legal Catch. Any steelhead caught in a legal manner must be either released or killed immediately after it is landed.

(3-20-97)

04. ~~Restrictions And Legal Limit~~ Cease Fishing. Once an angler has attained his bag, possession or season limit on those waters with steelhead limits, he must cease fishing for steelhead, including catch-and-release fishing, ~~EXCEPT in those river sections with a daily limit of one (1) steelhead per day, anglers may continue to fish on a catch-and-release basis only.~~

(3-20-97)(12-8-03)T

05. No Harvest Or Closed To Harvest. Effort, by permitted methods, to catch or attempt to catch a steelhead is lawful with the restriction that any steelhead so caught must be released immediately, unharmed, back to the water.

(3-20-97)

06. Keeping Marked Fish. Only steelhead which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage.

(3-20-97)

07. Fish Counted in Limit. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish.

(3-20-97)

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits.

(3-20-97)

~~09. One Rod.~~ ~~Only one (1) rod or pole may be used to fish for steelhead, even if you have purchased a two-pole validation.~~

(3-30-01)

(BREAK IN CONTINUITY OF SECTIONS)

501. SALMON DEFINITIONS.

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes and the North Fork of the Clearwater River

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above Dworshak Dam), and the Boise and Payette River Drainages. ~~(3-20-97)~~(12-8-03)T

02. Jack Salmon. Chinook salmon under twenty (20) inches in total length are commonly called jack salmon. (3-20-97)

502. SALMON LICENSES AND PERMITS.

01. Licenses. Any person fishing for salmon, except those expressly exempt, must have in his or her possession a valid fishing license. ~~Any person who does not qualify as a resident must purchase either a Nonresident Three Day Fishing License with a Salmon Permit or a nonresident season fishing license and a full season salmon permit.~~ ~~(3-20-97)~~(12-8-03)T

02. Permits. Any person fishing for, reducing to possession, or catching and releasing ~~e~~Chinook salmon must have a valid salmon permit in his or her possession. However, when a salmon is immediately released unharmed, the angler ~~is~~ not required to make an entry on the permit. ~~(3-20-97)~~(12-8-03)T

503. PERMIT VALIDATION.

When a ~~e~~Chinook salmon has been hooked, landed, and reduced to permission, the angler hooking the fish must immediately complete the following: ~~(3-20-97)~~(12-8-03)T

01. Permit. Cut out and completely remove one (1) numbered notch from the permit. (3-20-97)

02. Number Code. Look up the number code from the location code list in Subsection 403.02 and write it in the space provided. ~~(3-20-97)~~(12-8-03)T

03. Date Entry. Enter in the space provided, the month, and day the fish was caught. (3-20-97)

504. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

No person shall have in the field or in transit any ~~e~~Chinook salmon from which the head or tail has been removed. ~~(3-20-97)~~(12-8-03)T

505. SALMON SPECIAL RESTRICTIONS.

01. Method Of Take. It is unlawful to use any hook larger than five-eighths (5/8) inch measured from the point of the hook to the shank. Salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Salmon may be taken with barbed hooks in the Boise and Payette River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ~~(3-20-97)~~(12-8-03)T

02. Snagging. No person shall kill or retain in possession any salmon which has been hooked other than in the mouth or jaw. Any salmon hooked other than in the mouth or jaw must be immediately released unharmed. (12-8-03)T

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Fish**Docket No. 13-0111-0401**
PENDING RULE

03. Legal Catch. Any salmon caught in a legal manner must be either released or killed immediately after it is landed. (12-8-03)T

024. Cease Fishing. Once an angler has attained his bag, possession, or season limit on those waters with salmon limits, he must cease fishing for salmon. (3-20-97)

05. No Harvest or Closed to Harvest. Effort, by permitted methods, to catch or attempt to catch a salmon is lawful with the restriction that any salmon so caught must be released immediately, unharmed, back to the water. (12-8-03)T

06. Keeping Marked Fish. Only salmon which have been marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainage. (12-8-03)T

07. Fish Counted in Limit. All fish that are hooked, landed, and not immediately released shall be counted in the limits of the person hooking the fish. (12-8-03)T

08. Special Limits. No person shall fish in waters having special limits while possessing fish of those species in excess of the special limits. (12-8-03)T

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.12 - COMMERCIAL FISHING IN THE STATE OF IDAHO

DOCKET NO. 13-0112-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-804, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgate a new rule with certain changes regarding the use of nets to take Lake Trout. The proposed rule incorporated the requested changes and address the use of commercial fishing to reduce the numbers of Lake Trout as an option for fishery management in Lake Pend Oreille.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 305 through 309.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 26, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-804, Idaho Code.

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Commercial Fishing

Docket No. 13-0112-0401
PENDING RULE

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Rules Review Subcommittee of the House Resources and Conservation Committee asked the Commission to promulgate a new rule with certain changes regarding the use of nets to take Lake Trout. These rules incorporate the requested changes and address the use of commercial fishing to reduce the numbers of Lake Trout as an option for fishery management in Lake Pend Oreille.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit allowing the Commission to respond to legislative direction, and allowing the Department of Fish and Game to continue its fishery management uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Commission is responding to legislative direction and the need for fishery management to continue uninterrupted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Virgil Moore (208) 287-2771.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25, Boise, Idaho 83707

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

Docket No. 13-0112-0401
PENDING RULE

(208) 334-3715, Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

13.01.12 - RULES GOVERNING COMMERCIAL FISHING ~~IN THE STATE OF IDAHO~~

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-804, Idaho Code, to adopt rules concerning commercial fishing. (4-26-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.12.000, et seq., Rules of the Idaho Fish and Game Commission, IDAPA 13.01.12, “Rules Governing Commercial Fishing”. (4-26-04)T

02. Scope. These rules establish the criteria for commercial fishing in Idaho, identify waters where commercial fishing is allowed, and set standards for equipment. (4-26-04)T

002. WRITTEN INTERPRETATIONS.

This agency has no written interpretations of these rules. (4-26-04)T

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 13.01.01, “Rules of Practice and Procedure of the Idaho Fish and Game Commission,” and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General”. (4-26-04)T

004. INCORPORATION BY REFERENCE.

There are no documents which have been incorporated by reference into this rule. (4-26-04)T

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The principal place of business of the Idaho Fish and Game Commission and Idaho Department of Fish and Game is in Boise, Idaho. The Headquarters office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-26-04)T

0006. -- 009. (RESERVED).

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. (7-1-93)

02. Commercial ~~Non-Game~~ Fish Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03 of this rule, only the following ~~non-game~~

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

Docket No. 13-0112-0401
PENDING RULE

fish species may be taken for commercial purposes:

~~(7-1-93)~~(4-26-04)T

- a. Bluehead sucker - *Catostomus discobolus*. (7-1-93)
- b. Bridgelip sucker - *Catostomus columbianus*. (7-1-93)
- c. Carp - *Cyprinus carpio*. (7-1-93)
- d. Chiselmouth - *Arocheilus alutaceus*. (7-1-93)
- e. Fathead minnow - *Pimephales promelas*. (7-1-93)
- f. Goldfish - *Carassius auratus*. (7-1-93)
- g. Lake chub - *Couesius plumbeus*. (7-1-93)
- h. Largescale sucker - *Catostomus macrochailus*. (7-1-93)
- i. Leatherside chub - *Gila copei*. (7-1-93)
- j. Leopard dace - *Rhinichthys falcatus*. (7-1-93)
- k. Longnose dace - *Rhinichthys cataractae*. (7-1-93)
- l. Mountain sucker - *Catostomus platyrhynchus*. (7-1-93)
- m. Northern squawfish - *Ptychocheilus oregonensis*. (7-1-93)
- o. Peamouth - *Mylocheilus caurinus*. (7-1-93)
- p. Redside shiner - *Richardsonius balteatus*. (7-1-93)
- q. Speckled dace - *Rhinichthys osculus*. (7-1-93)
- r. Tench - *Tinca tinca*. (7-1-93)
- s. Tui chub - *Gila bicolor*. (7-1-93)
- t. Utah chub - *Gila atraria*. (7-1-93)
- u. Utah sucker - *Catostomus ardens*. (7-1-93)
- v. Lake trout – *Salvelinus namaycush*. (4-26-04)T

03. Commercial Crustacea Species. Except as permitted by the Director of the Department of Fish and Game under Subsection 100.03, only the Crayfish - species of the genus *Pacifastacus*, may be taken for commercial purposes. (7-1-93)

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DEPARTMENT OF FISH AND GAME Rules Governing Commercial Fishing

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PENDING RULE

011. -- 099. (RESERVED).

100. LICENSES, TAGS AND PERMITS.

01. Licenses. Approved commercial gear may be set, operated, lifted or fished ONLY by the holder of a valid commercial fishing license to which the gear is registered or persons assisting in the presence of the licensee; except that any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel fishing tackle must either hold a commercial license or fishing license according to the Idaho Fish and Game Commission rules approved for sportfishing. The license must be in the possession of the licensee and made available at all times. ~~(7-1-93)~~(4-26-04)T

02. Tags. No person may set, operate, lift or fish commercial gear unless such gear has attached thereto valid commercial gear tags, except that no tags need be attached to conventional rod and reel fishing tackle used for commercial fishing. The Director of the Department of Fish and Game is authorized to issue special tags for experimental commercial gear under such conditions as the Director may deem appropriate. ~~(7-1-93)~~(4-26-04)T

03. Permits. The Director may issue permits authorizing the holder thereof to: (7-1-93)

a. Commercially fish for non-game fish or crustacea not listed as commercial species. (7-1-93)

b. Commercially fish in waters other than those listed in Section 700. (7-1-93)

c. Such permits shall be valid for a period not to exceed one (1) year. (7-1-93)

04. Revocation of Licenses and Permits. The Director of the Department of Fish and Game is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of the Fish and Game Code or these rules by the licensee or persons acting under the licensee's direction and control. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA. Fish or crustacea may be commercially harvested ONLY with the following gear and methods: (7-1-93)

01. With Seine Nets. However, all seine nets must be either: (7-1-93)

a. Under constant attendance by the licensee or someone working under the supervision of the licensee; or (7-1-93)

b. If being used to hold fish, clearly marked with buoys that are at least twelve (12)

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PENDING RULE

inches in diameter. (7-1-93)

02. With Crayfish or Minnow Traps, Not Exceeding Three Feet in Any Dimension. However, all crayfish and minnow traps must be lifted and emptied of catch at least once every ninety-six (96) hours except during periods of weather that pose a threat to human life, health or safety. (7-1-93)

03. Experimental Gear. With experimental gear approved by the Director pursuant to Subsection 100.02. (7-1-93)

04. By Hand. For crayfish ONLY, by hand. (7-1-93)

05. Trawl Nets. With trawl nets as approved by the Director. (7-1-93)

06. Conventional Rod and Reel Fishing Tackle. Only methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," are permitted, except that the holder of a commercial license may use more than two (2) lines while commercially fishing. (4-26-04)T

(BREAK IN CONTINUITY OF SECTIONS)

700. COMMERCIAL FISHING AREAS.

Commercial harvest is allowed only in the following areas: (7-1-93)

01. For Seine Nets. Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

b. Ashton Reservoir. (7-1-93)

c. Palisades Reservoir. (7-1-93)

d. Lake Lowell. (7-1-93)

e. Black Canyon Reservoir. (7-1-93)

f. Blackfoot Reservoir. (7-1-93)

g. Mud Lake. (7-1-93)

h. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

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DEPARTMENT OF FISH AND GAME **Rules Governing Commercial Fishing**

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PENDING RULE

02. Minnow Traps. Minnow traps for commercial fish may be ONLY used in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b. (7-1-93)

a. Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. (7-1-93)

b. Ashton Reservoir. (7-1-93)

c. Palisades Reservoir. (7-1-93)

d. Black Canyon Reservoir. (7-1-93)

e. Blackfoot Reservoir. (7-1-93)

f. Mud Lake. (7-1-93)

g. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

03. Crayfish Traps. Crayfish traps for commercial crustacea may be used ONLY in the following areas, except as approved by the Director for other waters on an experimental basis pursuant to Subsection 100.03.b.: (7-1-93)

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. (7-1-93)

b. Black Canyon Reservoir. (7-1-93)

c. Blackfoot Reservoir. (7-1-93)

d. Mud Lake. (7-1-93)

e. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. (7-1-93)

04. Rod and Reel for Lake Trout Only. (4-26-04)T

a. Lake Pend Orielle. (4-26-04)T

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.13 - RULES GOVERNING THE TAKING OF MIGRATORY BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0113-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and adjustments, and established an area closed to hunting at Mann's Lake in Nez Perce County.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 310 through 312.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing the Taking of Migratory Birds**Docket No. 13-0113-0401**
PENDING RULE

scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Changes chapter name. Biennial season setting and adjustments. Establish an area closed to hunting at Mann's Lake in Nez Perce County.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to hunters and continues the hunting season without interruption.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting season without interruption and publish the Migratory Bird Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing the Taking of Migratory Birds

Docket No. 13-0113-0401
PENDING RULE

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

13.01.13 - RULES GOVERNING THE TAKING OF ~~MIGRATORY BIRDS~~ AMERICAN CROW IN THE STATE OF IDAHO

000. LEGAL AUTHORITY.

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1102(b), Idaho Code, to adopt rules concerning the taking of ~~migratory birds~~ American (common) crows in the state of Idaho. (5-3-03)(4-28-04)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 13.01.13.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.13, "Rules Governing the Taking of ~~Migratory Birds~~ American Crow in the State of Idaho". (5-3-03)(4-28-04)T

02. Scope. These rules establish the methods of take, seasons, and possession limits for ~~migratory birds~~ American (common) crows in the state of Idaho. (5-3-03)(4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

~~Migratory birds~~ American (common) crows are defined as the following species: The American (common) crow: *Corvus brachyrhynchos*. (7-1-93)(4-28-04)T

011. -- 099. (RESERVED).

100. ~~MIGRATORY BIRDS~~ AMERICAN CROW METHODS OF TAKE.

No person shall take ~~migratory birds~~ American (common) crow: (7-1-93)(4-28-04)T

01. Time. From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. (7-1-93)

02. Type of Take. With trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. (7-1-93)

03. Position. From boats or other craft having a motor attached UNLESS the motor is completely shut off and forward progress has ceased, or the boat is drifting naturally or it is propelled only by paddle, oars, or pole, or it is beached, moored, or resting at anchor. (7-1-93)

101. -- 199. (RESERVED).

200. AREAS CLOSED TO HUNTING OF ~~MIGRATORY BIRDS~~ AMERICAN CROW.

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing the Taking of Migratory Birds

Docket No. 13-0113-0401
PENDING RULE

Hunting, killing, or molesting of any ~~migratory bird~~ American (common) crow is prohibited in the following areas: (7-1-93)(4-28-04)T

01. Craters of the Moon National Monument. That area of Craters of the Moon National Monument in Blaine and Butte Counties; prior to the November 2000 expansion by Presidential decree. It is the hunter's responsibility to check with the Park Service to be able to identify the closed area. (7-1-93)(4-28-04)T

02. Hagerman Fossil Beds National Monument. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (7-1-98)

03. Harriman State Park Wildlife Refuge. Harriman State Park Wildlife Refuge in Fremont County; (7-1-93)

04. Nez Perce National Historical Park. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

05. Ada County. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits; (5-3-03)

06. Yellowstone National Park. Yellowstone National Park in Fremont County; and (7-1-93)

07. Mann's Lake. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. (4-28-04)T

078. Other Locations. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

201. -- 299. (RESERVED).

300. ~~MIGRATORY BIRD~~ AMERICAN CROW SEASONS, BAG AND POSSESSION LIMITS.

~~The following seasons, bag and possession limits apply STATEWIDE:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets seasons, bag limits, and possession limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

~~**01. Seasons.** Seasons for taking migratory birds are:~~ (7-1-93)

~~**a.** October 1 through January 31 annually.~~ (9-7-94)

~~**02. Limits.** There are no daily bag or possession limits on migratory birds.~~ (9-7-94)

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.14 - RULES GOVERNING FALCONRY IN THE STATE OF IDAHO

DOCKET NO. 13-0114-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 36-104(b) and 36-1102(c), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and rule adjustments.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 314 through 316.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than O

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Falconry in the State of Idaho

Docket No. 13-0114-0401
PENDING RULE

October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial season setting and rule adjustments.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to falconers and allows the hunting seasons to continue without interruption.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the hunting seasons uninterrupted and to publish the Falconry Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing Falconry in the State of Idaho

Docket No. 13-0114-0401
PENDING RULE

600. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME BIRDS.

~~For season dates, bag and possession limits during the firearms seasons, see Game Bird Rules, IDAPA 13.01.09. The season, bag and possession limits during the falconry only seasons are as follows:~~ (7-1-93)

01. Upland Game Birds. (pheasants -- all varieties, gray partridge, chukar partridge, bobwhite quail, California quail, forest grouse -- blue, ruffed, spruce; sage grouse, sharp-tailed grouse): (10-26-94)

a. All counties or parts of counties which have a firearms season for a certain species are also open to hunting by falconry for that species. (10-26-94)

b. ~~Seasons:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (7-1-93)(4-28-04)T

i. ~~August 15 to the opening of the firearms season and from the close of the firearms season through March 15 annually.~~ (10-26-94)

e. ~~Daily bag limit: three (3) of any kind and shall not include more than one (1) pheasant (male or female), one (1) sage grouse, or one (1) sharp-tailed grouse.~~ (7-1-98)

d. ~~Possession limit after the first day of the season: six (6) of any kind and shall not include more than two (2) pheasants (male or female), two (2) sage grouse or two (2) sharp-tailed grouse.~~ (7-1-98)

601. -- 609. (RESERVED).

610. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME ANIMALS.

~~The following seasons, bag and possession limits shall apply statewide:~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. (10-26-94)(4-28-04)T

01. Rabbit. ~~The cottontail rabbit season is March 1 through August 31, annually.~~ (5-3-03)

02. Hare. ~~The snowshoe hare season is March 1 through August 31, annually.~~ (10-26-94)

03. Bag Limit. ~~Daily bag limit is two (2) of any kind.~~ (7-1-98)

04. Possession Limit. ~~After the first day of the season: four (4) of any kind.~~ (7-1-98)

611. -- 619. (RESERVED).

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Rules Governing Falconry in the State of Idaho

Docket No. 13-0114-0401
PENDING RULE

620. FALCONRY ~~Seasons, Bag And Possession Limits~~ FOR MIGRATORY GAME BIRDS.

01. Ducks Including Mergansers and American Coot. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(8-22-94)(4-28-04)T~~

a. Area 1 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 1 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Bannock; Bingham EXCEPT that portion within the Blackfoot Reservoir drainage; Power east of State Highway 37 and State Highway 39; and, all lands, including private holdings, within the Fort Hall Indian Reservation. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 1 season for ducks (including mergansers) and American coot: CLOSED.~~
~~(7-1-99)~~

b. Area 2 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 2 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of State Highway 75, south and east of U.S. Highway 93, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou EXCEPT the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 2 season for ducks (including mergansers) and American coot: CLOSED.~~
~~(7-1-99)~~

c. Area 3 is that area designated by the U.S. Fish and Wildlife Service as Waterfowl Zone 3 and includes the following counties or portions of counties: ~~(8-22-94)~~

~~i.~~ Ada; those portions of Blaine between State Highway 75 and U.S. Highway 93 south of U.S. Highway 20, and between State Highway 75 and U.S. Highway 93 north of U.S. Highway 20 within the Silver Creek drainage; Boise; Canyon; Cassia EXCEPT the Minidoka National Wildlife Refuge; Elmore EXCEPT the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of State Highway 37 and State Highway 39 EXCEPT the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties. ~~(8-22-94)(4-28-04)T~~

~~ii.~~ ~~Area 3 season for ducks (including mergansers) and American coot: CLOSED.~~
~~(7-1-99)~~

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Rules Governing Falconry in the State of Idaho**Docket No. 13-0114-0401**
PENDING RULE

02. Mourning Dove. (8-22-94)

a. All counties or portions of counties which have a mourning dove season are open to hunting by falconry. (8-22-94)

b. ~~Season for doves: November 1 through January 16, annually.~~ Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-98)(4-28-04)T~~

03. Bag and Possession Limits. (8-22-94)

a. Daily bag limit is three (3) of any kind. (7-1-98)

b. Possession limit after the first day of the season is six (6) of any kind. (7-1-98)

621. -- 629. (RESERVED).

630. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR MIGRATORY BIRDS.

~~Seasons, bag and possession limits shall apply as follows:~~ Migratory birds may be taken by falconry ONLY during the firearms season. Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(7-1-93)(4-28-04)T~~

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule made biennial season settings and rule adjustments, provided a definition of bait, clarified the otter reporting requirement and increased the reimbursement for certain nontarget animals. It also clarified a closure area.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 318 through 322.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is April 28, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Biennial season setting and rule adjustment. Provide a definition of bait. Clarify the otter reporting requirement and increase the reimbursement for certain nontarget animals. Clarify a closure area.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to trappers and hunters, and allows the seasons to continue uninterrupted.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need to continue the seasons without interruption and publish the Furbearers, Predators and Unprotected Species Season Proclamation Brochure.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Don Kemner (208) 287-2748.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
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600 S. Walnut
P.O. Box 25
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(208) 334-3715

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME
Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

010. DEFINITIONS.

01. Furbearing Animals. Furbearing animals are defined as the following species:
(7-1-93)

a. Marten--*Martes americana*. (7-1-93)

b. Fisher--*Martes pennanti*. (7-1-93)

c. Mink--*Mustela vison*. (7-1-93)

d. Otter--*Lontra canadensis*. (3-30-01)

e. Beaver--*Castor canadensis*. (7-1-93)

f. Muskrat--*Ondatra zibethicus*. (7-1-93)

g. Bobcat--*Felis rufus*. (7-1-93)

h. Lynx--*Felis lynx*. (7-1-93)

i. Red Fox--*Vulpes vulpes*, and includes all color phases found in Idaho. (7-1-93)

j. Raccoon--*Procyon lotor*. (7-1-93)

k. Badger--*Taxidea taxus*. (7-1-93)

02. Predatory Wildlife. Predatory wildlife is defined as the following species:
(7-1-93)

a. Coyote. (7-1-93)

b. Jackrabbit. (7-1-93)

c. Skunk. (7-1-93)

d. Weasel. (7-1-93)

03. Unprotected Wildlife. Unprotected wildlife is defined as all animals OTHER than those classified by the Fish and Game Commission as game animals, upland game animals, game birds, game fish, crustacea, migratory birds, furbearing animals, threatened or endangered wildlife, protected nongame wildlife or predatory wildlife.
(7-1-93)

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DEPARTMENT OF FISH AND GAME
Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

- 04. Bait.** Bait is defined as any animal parts; except bleached bones or liquid scent.
(4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

200. TRAPS.

- 01. Checking Traps.** (7-1-93)

a. No person shall place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. (7-1-93)

b. Trappers acting under authority of the U.S. Department of Agriculture, Animal Plant Health Inspection Service, Wildlife Services are exempt from this rule. (7-1-99)

02. Removing Trapped Animals of Another. No person shall remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. (7-1-93)

- 03. Release of Non-Target Catches.** (7-1-93)

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed. (7-1-93)

- b.** Any trapper who catches a non-target species that is dead shall: (7-1-93)

i. Prior to removing the animal, record the date and species of animal caught. This information must be included in the mandatory furtaker harvest report. (5-3-03)

- ii.** Remove the animal from the trap and take it into possession. (7-1-93)

iii. Notify the Department of Fish and Game through the local Conservation Officer, Subregional or Regional office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. (10-26-94)

iv. The Department will reimburse trappers ~~five ten~~ dollars (\$~~5~~10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ~~(7-1-99)~~(4-28-04)T

(BREAK IN CONTINUITY OF SECTIONS)

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

400. METHODS OF TAKE.

01. Furbearing Animals. No person shall take beaver, muskrat, mink, marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (5-3-03)

02. Hunting. No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

b. Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

c. Hunt any furbearing animal, except raccoon, with or by the aid of artificial light. (7-1-93)

d. No person hunting raccoon at night shall: (7-1-93)

i. Hunt from a motorized vehicle. (7-1-93)

ii. Use any light attached to any motor vehicle. (7-1-93)

iii. Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)

03. Trapping. No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

a. Use for bait or scent, any part of ~~any~~ a domestic or wild origin game bird, game animal, game fish, or protected nongame wildlife. ~~(7-1-93)~~(4-28-04)T

b. Use any ~~dry land~~ set within thirty (30) feet of any visible bait ~~except bleached bones of furbearers, unprotected, or predatory wildlife.~~ ~~(7-1-93)~~(4-28-04)T

c. Use a dirt hole set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (7-1-93)

d. Use live animals as a bait or attractant. (4-28-04)T

401. -- 499. (RESERVED).

500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.

01. Mandatory Check and Report. Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by: (5-3-03)

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. ~~Trappers must surrender the skull and possibly other organs or the entire carcass to the Department to aid in evaluating the harvest.~~ Otters harvested after the season has closed, or otters harvested in excess or a trapper's personal quota of two (2), must be turned into IDFG personnel. Check with the IDFG regional office for further information when reporting a harvest. ~~(5-3-03)~~(4-28-04)T

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho which does not have an official state export tag attached. (3-30-01)

02. Pelt Tags. A fee of two dollars (\$2) will be charged for each pelt tag. An additional one-dollar and fifty cent (\$1.50) vendor fee will be charged to each license holder when pelts are brought in for tagging. (3-30-01)

a. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-98)

b. No person shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt which does not have an official state export tag attached. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.

Hunting, trapping, killing or molesting of furbearing animals, predatory and unprotected wildlife is prohibited in the following areas: (7-1-93)

01. Craters of the Moon. That area of Craters of the Moon National Monument in

Senate Resource and Environment Committee

DEPARTMENT OF FISH AND GAME Trapping of Predatory and Unprotected Wildlife

Docket No. 13-0116-0401
PENDING RULE

Blaine and Butte Counties prior to the November 2000 expansion by Presidential decree. It is the trapper's/hunter's responsibility to check with the Park Service to be able to identify the closed area. ~~(7-1-98)(4-28-04)T~~

- 02. Hagerman Fossil Beds National Monument in Twin Falls County. (7-1-98)
- 03. Nez Perce National Historical Park. In Clearwater, Idaho, and Nez Perce Counties. (7-1-98)
- 04. Ada County. That portion of Ada County: (7-1-93)
 - a. Within Veterans Memorial Park; (7-1-93)
 - b. Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and (7-1-93)
 - c. Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. (7-1-93)
- 05. Stanley Creek. Wildlife Interpretive Area in Custer County. (7-1-98)
- 06. Yellowstone National Park. In Fremont County. (7-1-98)
- 07. Other Areas. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. (7-1-93)
- 08. National Wildlife Refuges. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

750. SEASONS.

01. **Restricted Fur-Bearing Animals.** There is NO open season for Fisher, Wolverine, Kit Fox, or Lynx. ~~(3-30-01)(4-28-04)T~~

02. ~~**Upland Game Brochure.** Please see the Upland Game brochure, which contains the Commission's proclamation setting seasons, bag, and possession limits.~~ **Proclamations.** Pursuant to Section 36-105(3), Idaho Code, the Commission now sets the seasons, bag limits, and possessions limits by proclamation. The proclamation is published in a brochure available at Department offices and license vendors. ~~(3-30-01)(4-28-04)T~~

Senate Resource and Environment Committee

IDAPA 13 - DEPARTMENT OF FISH AND GAME

13.01.19 - RULES FOR OPERATING, DISCONTINUING, AND SUSPENDING VENDORS

DOCKET NO. 13-0119-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 36-301, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule clarified and simplified the requirements and documentation for proving residency status for license sales.

The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 324 through 326.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact W. Dallas Burkhalter at 208-334-3715.

DATED this 28th day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The effective date of the temporary rule is December 8, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-301, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

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Operating, Discontinuing, & Suspending Vendors

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agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Clarify and simplify the requirements and documentation for proving residency status for license sales.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit to license buyers and license vendors by simplifying proof of residency requirements.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: Not Applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jeff Seward (208) 287-2811.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 5th day of August, 2004.

W. Dallas Burkhalter
Deputy Attorney General
Natural Resources Division/Fish and Game
600 S. Walnut
P.O. Box 25
Boise, Idaho 83707
(208) 334-3715
Fax (208) 334-2148

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

Senate Resource and Environment Committee

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130. ISSUING LICENSES AND TAGS.

01. Identification Required. A vendor shall receive proper identification as defined in Subsection 130.03 of this rule from each individual before issuing an Idaho resident license or tag. ~~Collector stamps, n~~Nonresident licenses, and daily fishing licenses do not require identification. (3-20-97)(12-8-03)T

02. Ordering by Mail. Licenses and tags also may be obtained by mail by forwarding to the Idaho Department of Fish and Game, License Section, PO Box 25, Boise, ID 83707, a legible copy of proper identification as described in Subsection 130.03 of this rule: (3-20-97)

a. Applications for mail-ordered licenses and tags shall be made on department forms obtainable from department offices and shall be postmarked on or before any deadlines that may have been established for issuance of such license or tag. (3-20-97)

b. The department may require additional information to assist with the completion of mail-ordered transactions. (3-20-97)

c. Licenses or tags shall not be issued until the required fee has been received by the department in the form of personal check or money order. (3-20-97)

03. Proof of Residence. The vendor shall ~~assure that sufficient~~ confirm proof of residence ~~is furnished~~ before issuing a resident license. In cases where the vendor cannot obtain suitable proof of residence, the vendor should NOT issue the license and refer the applicant to the local conservation officer or department office so that residency can be verified by the department. ~~Proper identification for resident documents include an Idaho driver's license or Idaho ID card. If a person drives and is applying for an Idaho resident Fish and Game license, they must provide a valid Idaho driver's license. A previous year's fish and game license is not acceptable proof of residency. If an applicant has neither and is not a minor child, then a combination of three pieces of identification are required bearing the name and address of the applicant, but not issued by himself, such as~~ Acceptable proof of residency is: (3-20-97)(12-8-03)T

a. A valid Idaho driver's license for all persons who drive. (12-8-03)T

b. Persons who have not been issued a driver's license, who do not drive and who are eighteen (18) years of age or older are required to prove residency by providing two (2) pieces of identification bearing the name and address of the applicant, but not issued by himself, acceptable documents are: (12-8-03)T

i. Idaho identification card. (12-8-03)T

aii. In the case of a minor child (under eighteen (18)) identification from a parent. (3-20-97)

b. Rent receipt or mortgage statement dated at least six (6) months prior. (3-20-97)

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~~e~~iii. Home electricity, gas, cable or phone utility bills dated at least six (6) months prior.
(~~3-20-97~~)(12-8-03)T

~~d~~iv. Notarized statement from an employer on business letterhead. (3-20-97)

~~e~~v. Proof of voter registration dated six (6) months prior. (3-20-97)

vi. A residency affidavit signed by the license purchaser. (12-8-03)T

04. Completion of Form. Vendor shall fill in all the information requested on the document, including the full name, complete address, gender, date of birth, and mark the box for the type of document for which applicant is applying. (3-20-97)

05. Social Security Numbers. Vendor shall ~~request voluntary~~ require disclosure of social security numbers for any person who purchases a license. The social security number shall be used only as a unique number to assist the department with matching licenses and tags sold to an individual. Disclosure of social security numbers to the department is ~~voluntary~~ required by Section 73-122, Idaho Code, and the department shall not use such numbers for any purpose other than that expressed herein. A person's social security number is considered confidential and will not be released to any person by the department. (~~3-20-97~~)(12-8-03)T

06. Vendor Employees. Any employee of the vendor may issue documents, provided that the employee is instructed as to all applicable statutes and regulations. Vendor is responsible for employee training and for any violation of applicable statutes and regulations committed by employees. (3-20-97)

07. Resident Privileges. No one can claim Idaho resident privileges while claiming resident privileges in another state (except military personnel). (3-20-97)

08. Negligence. The issuing vendor must be sure that the license information is complete and is recorded before the license sale is final. Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship. (3-20-97)

Senate Resource and Environment Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Vol. 04-8, pages 189 through 200. The Department of Environmental Quality (DEQ) held a public hearing in Boise, Coeur d'Alene, and Pocatello. DEQ received comments from the public. The proposed rule has been revised at Subsections 210.03.c.i. and 210.03.c.iv.(1). At Subsection 210.03.c.i., DEQ's proposal to remove the lower limitation on hardness dependent toxicity relations has been revised to keep the current 25 mg/l limit in place as the minimum hardness. At Subsection 210.03.c.iv.(1), the use of the Implementation Guidance for the Idaho Mercury Water Quality Criteria has been clarified. The remainder of the rule has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The water quality criteria for toxic compounds are not broader in scope or more stringent than federal law or regulations, and do not regulate an activity not regulated by the federal government. Where changes in criteria have been made, the resulting criteria are no more stringent than EPA's current 2002 national recommendations. EPA currently has no guidance on implementation of its recommended fish tissue criterion for methylmercury.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

DATED this 18th day of November, 2004.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment Reqs.

Docket No. 58-0102-0302
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The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this proposed rulemaking will be held as follows. The hearings will take place simultaneously and will be connected by telephone.

September 1, 2004, 3:00 p.m. PDT
Department of Environmental Quality, Large Conference Room
2110 Ironwood Parkway, Coeur d'Alene, Idaho

September 1, 2004, 4:00 p.m. MDT
Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

September 1, 2004, 4:00 p.m. MDT
Department of Environmental Quality, Snake River Room
444 Hospital Way #300, Pocatello, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In June 2003, the Idaho Mining Association (IMA) filed a Petition for Initiation of Rulemaking to revise Idaho's mercury criteria in accordance with new EPA guidance released in November 2002. In October 2003, the Department of Environmental Quality (DEQ) initiated negotiated rulemaking to consider IMA's proposed revision and other updates to Idaho's metals criteria that are determined to be necessary and prudent. The text of the proposed rule was developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All users of Idaho's waters, particularly dischargers of mercury and other metals, may be interested in commenting on this proposed rule.

Six human health criteria for 3 metals have been updated (Sb, Hg, & Zn), including a new fish tissue criterion for methylmercury, which necessitated that the committee and DEQ develop guidance on its implementation. Also updated are eleven aquatic life criteria for six metals (As, Cd, Cr III, Cr IV, Ni, and Zn). DEQ is also proposing to drop the low-end limit on hardness used in application of hardness dependent metals criteria, affecting Cd, Cr III, Cu, Pb, Ni, Ag and Zn criteria in waters with less than 25 mg/L hardness. These changes are

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based on newer science and aquatic toxicity studies, and, in the case of human health, an updated EPA criteria development methodology. All proposed updates are per the new (2002) EPA recommendations, but not all EPA 2002 recommendations have been proposed for adoption in Idaho. Several of EPA's recommendations were set aside for future action.

The two aquatic life criteria for mercury are "reserved," meaning old existing criteria are removed and no new criteria proposed. Reservation of both the mercury aquatic life criteria is consistent with previous EPA action in promulgation of the California Toxics Rule. It does, however, depart from EPA's 2002 recommendations of 1.4 ug/L dissolved Hg as an acute criterion and 0.77 ug/L as a chronic criterion, which were incorporated in IMA's petition. It is also inconsistent with EPA's mercury criterion document, which calls into question the chronic criterion's adequacy for protecting some species of fish, but does not call into question the recommended acute criterion. DEQ is specifically seeking comment on reservation of the two aquatic life criteria for mercury, or the appropriateness of their adoption in Idaho.

EPA's 2002 recommendation on removing the low-end hardness limit implies that metals toxicity versus hardness relations remain linear and extend all the way to zero hardness. Though data exists that shows metals toxicity does continue to increase at hardness below 25 mg/L, down to 7-10 mg/L, DEQ knows of no data at even lower hardness, and is uncertain whether the hardness-toxicity relations remain linear. Therefore, DEQ is also specifically seeking comment and information on the removal of the low-end hardness limit.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. While not part of this rulemaking, DEQ is also seeking public comment on the Implementation Guidance for the Idaho Mercury Water Quality Criteria. The Implementation Guidance for the Idaho Mercury Water Quality Criteria and support documents for the criteria changes may be obtained at http://www.deq.state.id.us/rules/58-0102-0302_proposed.htm or by contacting Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: The water quality criteria for toxic compounds are not broader in scope or more stringent than federal law or regulations, and do not regulate an activity not regulated by the federal government. Where changes in criteria are proposed, the resulting criteria are no more stringent than EPA's current 2002 national recommendations. EPA currently has no guidance on implementation of its recommended fish tissue criterion for methylmercury.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on

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discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 through 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, October 1, 2003, Volume 03-10, page 585.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before September 20, 2004. Comments on the Implementation Guidance for the Idaho Mercury Water Quality Criteria may also be submitted to the undersigned.

Dated this 30th day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418 / Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
1 Antimony	7440360			44 5.6 l	4300 640 l
2 Arsenic	7440382	360 340 e	490 150 e	50 d	50 d
3 Beryllium	7440417			h	h
4 Cadmium	7440439	3.7 2 i	1.0 i	h	h
5a Chromium III	16065831	550 570 i	480 74 i	h	h
5b Chromium VI	18540299	45 16 e	40 11 e	h	h
6 Copper	7440508	17 i	11 i		
7 Lead	7439921	65 i	2.5 i	h	h
8a Mercury	7439976	2.4 e g	0.042 fg	0.14	0.15
8b Methylmercury	<u>22967926</u>				<u>0.3 mg/kg</u> p
9 Nickel	7440020	1400 470 i	460 52 i	610 c	4600 c
10 Selenium	7782492	20 f	5 f	h	h
11 Silver	7440224	3.4 i			
12 Thallium	7440280			1.7 c	6.3 c
13 Zinc	7440666	114 120 i	105 120 i	<u>7400</u>	<u>26000</u>
14 Cyanide	57125	22 j	5.2 j	700 c	220000 c
15 Asbestos	1332214			7,000,000 fibers/L k	
16 2, 3, 7, 8-TCDD Dioxin	1746016			0.000000013 l	0.000000014 l
17 Acrolein	107028			320	780
18 Acrylonitrile	107131			0.059 cl	0.66 cl
19 Benzene	71432			1.2 cl	71 cl
20 Bromoform	75252			4.3 cl	360 cl
21 Carbon Tetrachloride	56235			0.25 cl	4.4 cl

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
22 Chlorobenzene	108907			680 c	21000 c
23 Chlorodibromomethane	124481			0.41 cl	34 cl
24 Chloroethane	75003				
25 2-Chloroethylvinyl Ether	110758				
26 Chloroform	67663			5.7 cl	470 cl
27 Dichlorobromomethane	75274			0.27 cl	22 cl
28 1,1-Dichloroethane	75343				
29 1,2-Dichloroethane	107062			0.38 cl	99 cl
30 1,1-Dichloroethylene	75354			0.057 cl	3.2 cl
31 1,2-Dichloropropane	78875				
32 1,3-Dichloropropylene	542756			10 c	1700 c
33 Ethylbenzene	100414			3100 c	29000 c
34 Methyl Bromide	74839			48 c	4000 c
35 Methyl Chloride	74873			h	h
36 Methylene Chloride	75092			4.7 cl	1600 cl
37 1,1,2,2-Tetrachloroethane	79345			0.17 cl	11 cl
38 Tetrachloroethylene	127184			0.8 l	8.85 l
39 Toluene	108883			6800 c	200000 c
40 1,2-Trans-Dichloroethylene	156605				
41 1,1,1-Trichloroethane	71556			h	h
42 1,1,2-Trichloroethane	79005			0.6 cl	42 cl
43 Trichloroethylene	79016			2.7 l	81 l
44 Vinyl Chloride	75014			2 l	525 l
45 2-Chlorophenol	95578				
46 2,4-Dichlorophenol	120832			93 c	790 c
47 2,4-Dimethylphenol	105679				
48 2-Methyl-4,6-Dinitrophenol	534521			13.4	765
49 2,4-Dinitrophenol	51285			70 c	14000 c

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A		B		Human health for consumption of:		
(Number) Compound	^a CAS Number	^b CMC	^b CCC	Water & organisms (µg/L)	Organisms only (µg/L)	
		(µg/L)	(µg/L)			
		B1	B2	C1	C2	
50	2-Nitrophenol	88755				
51	4-Nitrophenol	100027				
52	3-Methyl-4-Chlorophenol	59507				
53	Pentachlorophenol	87865	20 m	13 m	0.28 cl	8.2 cl
54	Phenol	108952			21000 c	4600000 c
55	2,4,6-Trichlorophenol	88062			2.1 cl	6.5 cl
56	Acenaphthene	83329				
57	Acenaphthylene	208968				
58	Anthracene	120127			9600 c	110000 c
59	Benzidine	92875			0.00012 cl	0.00054 cl
60	Benzo(a)Anthracene	56553			0.0028 l	0.031 l
61	Benzo(a)Pyrene	50328			0.0028 l	0.031 l
62	Benzo(b)Fluoranthene	205992			0.0028 l	0.031 l
63	Benzo(ghi)Perylene	191242				
64	Benzo(k)Fluoranthene	207089			0.0028 l	0.031 l
65	Bis(2-Chloroethoxy) Methane	111911				
66	Bis(2-Chloroethyl)Ether	111444			0.031 cl	1.4 cl
67	Bis(2-Chloroisopropyl) Ether	108601			1400 c	170000 c
68	Bis(2-Ethylhexyl) Phthalate	117817			1.8 cl	5.9 cl
69	4-Bromophenyl Phenyl Ether	101553				
70	Butylbenzyl Phthalate	85687				
71	2-Chloronaphthalene	91587				
72	4-Chlorophenyl Phenyl Ether	7005723				
73	Chrysene	218019			0.0028 l	0.031 l
74	Dibenzoa,hAnthracene	53703			0.0028 l	0.031 l
75	1,2-Dichlorobenzene	95501			2700 c	17000 c

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
76	1,3-Dichlorobenzene	541731		400	2600
77	1,4-Dichlorobenzene	106467		400	2600
78	3,3'-Dichlorobenzidine	91941		0.04 cl	0.077 cl
79	Diethyl Phthalate	84662		23000 c	120000 c
80	Dimethyl Phthalate	131113		313000	2900000
81	Di-n-Butyl Phthalate	84742		2700 c	12000 c
82	2,4-Dinitrotoluene	121142		0.11 l	9.1 l
83	2,6-Dinitrotoluene	606202			
84	Di-n-Octyl Phthalate	117840			
85	1,2-Diphenylhydrazine	122667		0.040 cl	0.54 cl
86	Fluoranthene	206440		300 c	370 c
87	Fluorene	86737		1300 c	14000 c
88	Hexachlorobenzene	118741		0.00075 cl	0.00077 cl
89	Hexachlorobutadiene	87683		0.44 cl	50 cl
90	Hexachloro-cyclopentadiene	77474		240 c	17000 c
91	Hexachloroethane	67721		1.9 cl	8.9 cl
92	Ideno (1,2,3-cd) Pyrene	193395		0.0028 l	0.031 l
93	Isophorone	78591		8.4 cl	600 cl
94	Naphthalene	91203			
95	Nitrobenzene	98953		17 c	1900 c
96	N-Nitrosodimethylamine	62759		0.00069 cl	8.1 cl
97	N-Nitrosodi-n-Propylamine	621647			
98	N-Nitrosodiphenylamine	86306		5.0 cl	16 cl
99	Phenanthrene	85018			
100	Pyrene	129000		960 c	11000 c
101	1,2,4-Trichlorobenzene	120821			
102	Aldrin	309002	3	0.00013 cl	0.00014 cl
103	alpha-BHC	319846		0.0039 cl	0.013 cl

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
104 beta-BHC	319857			0.014 cl	0.046 cl
105 gamma-BHC (Lindane)	58899	2	0.08	0.019 l	0.063 l
106 delta-BHC	319868				
107 Chlordane	57749	2.4	0.00 43	0.00057 cl	0.00059 cl
108 4,4'-DDT	50293	1.1	0.00 1	0.00059 cl	0.00059 cl
109 4,4'-DDE	72559			0.00059 cl	0.00059 cl
110 4,4'-DDD	72548			0.00083 cl	0.00084 cl
111 Dieldrin	60571	2.5	0.00 19	0.00014 cl	0.00014 cl
112 alpha-Endosulfan	959988	0.22	0.05 6	0.93 c	2.0 c
113 beta-Endosulfan	33213659	0.22	0.05 6	0.93 c	2.0 c
114 Endosulfan Sulfate	1031078			0.93 c	2.0 c
115 Endrin	72208	0.18	0.00 23	0.76 c	0.81 c
116 Endrin Aldehyde	7421934			0.76 c	0.81 c
117 Heptachlor	76448	0.52	0.00 38	0.00021 cl	0.00021 cl
118 Heptachlor Epoxide	1024573	0.52	0.00 38	0.00010 cl	0.00011 cl
119 Polychlorinated Biphenyls PCBs:	n		0.01 4 n	0.00017 o	0.00017 o
120 Toxaphene	8001352	0.73	0.00 02	0.00073 cl	0.00075 cl
121 Chlorine		19 k	11 k		
Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.					
Table Footnotes					
a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.					
b. See Definitions, Section 003 of these rules.					

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DEPARTMENT OF ENVIRONMENTAL QUALITY Water Quality Standards/Wastewater Treatment Reqs.

Docket No. 58-0102-0302
PENDING RULE

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.					
d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.					
e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.					
f. Criterion expressed as total recoverable (unfiltered) concentrations.					
g. If the CCC for total mercury is exceeded more than once in a three (3) year period in ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methylmercury exceeds the FDA action level (one (1.0) mg/kg). If the FDA action level is exceeded, the Director must notify the EPA regional administrator, initiate a review and as appropriate, revision of its mercury criterion in these water quality standards, and take other appropriate action such as the issuance of fish consumption advisory for the affected area. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.					
h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.					
i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.b.iii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					
j. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
k. Total chlorine residual concentrations.					
l. This criterion is based on carcinogenicity of 10 ⁻⁶ risk.					
m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).					

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(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2

p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: $TRC = [BW \times \{RfD - (RSC \times RfD)\}] / \Sigma TL$. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.

(2-5-04)T()

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations:
(5-3-03)

a. $CMC = WER \exp\{m_A[\ln(\text{hardness})] + b_A\}$ X Acute Conversion Factor. (5-3-03)

b. $CCC = WER \exp\{m_C[\ln(\text{hardness})] + b_C\}$ X Chronic Conversion Factor.

Metal	m_A	b_A	m_C	b_C	^a Acute Conversion Factor	^a Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	1.128 1.0166	-3.828 -3.924	0.7852	-3.490	0.944	0.909
Chromium (III)	0.819	3.688 3.7256	0.8190	-1.561 0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	b 0.85
Nickel	0.846	3.3612 2.255	0.8460	-1.1645 0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.8604 0.884	0.8473	0.7614 0.884	0.978	0.986

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Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$

Chronic: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

~~(2-5-04)F()~~

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone of the mixing zones; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (5-3-03)

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams due to permitted discharges when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(5-3-03)

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized

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method (DFLOW model); (5-3-03)

v. Where “30Q5” is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. ~~(5-3-03)~~()

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be

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approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (10-24-03)T

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. ()

(1) The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” describes in detail *suggested methods for* discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, *will provide assistance to the Department and the public when implementing the methylmercury criterion.* The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The “Implementation Guidance for the Idaho Mercury Water Quality Criteria” is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, *and* www.deq.idaho.gov. ()

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. ()

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule.

(5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993. (4-5-00)

b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993. (4-5-00)

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c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993. (4-5-00)

d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994. (4-5-00)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 10⁻⁶ shall be utilized. (4-5-00)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0303

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective February 5, 2004. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a previously adopted temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to correct errors found in Section 210. Those areas that have been identified for correction include cross-reference citations, the domestic supply use criteria for chlordane in Subsection 210.01, and the conversion factor for cadmium in Subsection 210.02. In addition, this rulemaking will include the addition of omitted dissolved total conversion factors for chromium (VI) and mercury in Subsection 210.02.

In October 2003 the Board adopted the rule as a temporary rule. In December 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, December 3, 2003, Volume 03-12, pages 130 through 139. No public comments were received; however, additional corrections have been made to the tables found at Subsections 210.01.c. and 210.02.b. for consistency with the National Toxics Rule. The 210.01.c. table was revised by restoring the selenium acute criterion (CMC) to 20 µg/l as a total recoverable concentration and by adding a reference to footnote "f". In addition, a correction has been made to a citation found in footnote "e". The 210.02.b. table was revised by removing the conversion factor for selenium criteria because it is no longer necessary. The need for these corrections was discovered by DEQ after adoption of the temporary rule. The rulemaking record, which contains a detailed explanation for these changes, can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit its web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208)373-0502, dessig@deq.state.id.us.

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Dated this 5th day of February, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective October 24, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before December 17, 2003. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to correct errors found in Section 210. Those areas that have been identified for correction include cross-reference citations, the domestic supply use criteria for chlordane in Subsection 210.01, and the conversion factor for cadmium in Subsection 210.02. In addition, this rulemaking will include the addition of omitted dissolved total conversion factors for chromium (VI) and mercury in Subsection 210.02.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the spring of 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to protect public health.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit

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DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before December 31, 2003.

DATED this 24th day of October, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria For Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
1 Antimony	7440360			14 l	4300 l
2 Arsenic	7440382	360 e	190 e	50 d	50 d
3 Beryllium	7440417			h	h
4 Cadmium	7440439	3.7 i	1.0 i	h	h
5a Chromium III	16065831	550 i	180 i	h	h
5b Chromium VI	18540299	15 e	10 e	h	h
6 Copper	7440508	17 i	11 i		
7 Lead	7439921	65 i	2.5 i	h	h
8 Mercury	7439976	2.1 e	0.012 fg	0.14	0.15
9 Nickel	7440020	1400 i	160 i	610 c	4600 c
10 Selenium	7782492	4820 f	5 f	h	h
11 Silver	7440224	3.4 i			
12 Thallium	7440280			1.7 c	6.3 c
13 Zinc	7440666	114 i	105 i		
14 Cyanide	57125	22 j	5.2 j	700 c	220000 c
15 Asbestos	1332214			7,000,000 fibers/L k	
16 2, 3, 7, 8-TCDD Dioxin	1746016			0.000000013 l	0.000000014 l
17 Acrolein	107028			320	780
18 Acrylonitrile	107131			0.059 cl	0.66 cl
19 Benzene	71432			1.2 cl	71 cl
20 Bromoform	75252			4.3 cl	360 cl
21 Carbon Tetrachloride	56235			0.25 cl	4.4 cl
22 Chlorobenzene	108907			680 c	21000 c
23 Chlorodibromomethane	124481			0.41 cl	34 cl
24 Chloroethane	75003				
25 2-Chloroethylvinyl Ether	110758				
26 Chloroform	67663			5.7 cl	470 cl
27 Dichlorobromomethane	75274			0.27 cl	22 cl

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A			B		Human health for consumption of:				
(Number) Compound			^a CAS Number	^b CMC (µg/L)	^b CCC (µg/L)	Water & organisms (µg/L)		Organisms only (µg/L)	
			B1	B2	C1		C2		
28	1,1-Dichloroethane		75343						
29	1,2-Dichloroethane		107062			0.38	cl	99	cl
30	1,1-Dichloroethylene		75354			0.057	cl	3.2	cl
31	1,2-Dichloropropane		78875						
32	1,3-Dichloropropylene		542756			10	c	1700	c
33	Ethylbenzene		100414			3100	c	29000	c
34	Methyl Bromide		74839			48	c	4000	c
35	Methyl Chloride		74873				h		h
36	Methylene Chloride		75092			4.7	cl	1600	cl
37	1,1,2,2-Tetrachloroethane		79345			0.17	cl	11	cl
38	Tetrachloroethylene		127184			0.8	l	8.85	l
39	Toluene		108883			6800	c	200000	c
40	1,2-Trans-Dichloroethylene		156605						
41	1,1,1-Trichloroethane		71556				h		h
42	1,1,2-Trichloroethane		79005			0.6	cl	42	cl
43	Trichloroethylene		79016			2.7	l	81	l
44	Vinyl Chloride		75014			2	l	525	l
45	2-Chlorophenol		95578						
46	2,4-Dichlorophenol		120832			93	c	790	c
47	2,4-Dimethylphenol		105679						
48	2-Methyl-4,6-Dinitrophenol		534521			13.4		765	
49	2,4-Dinitrophenol		51285			70	c	14000	c
50	2-Nitrophenol		88755						
51	4-Nitrophenol		100027						
52	3-Methyl-4-Chlorophenol		59507						
53	Pentachlorophenol		87865	20 m	13 m	0.28	cl	8.2	cl
54	Phenol		108952			21000	c	4600000	c
55	2,4,6-Trichlorophenol		88062			2.1	cl	6.5	cl

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
56	Acenaphthene	83329			
57	Acenaphthylene	208968			
58	Anthracene	120127		9600 c	110000 c
59	Benzidine	92875		0.00012 cl	0.00054 cl
60	Benzo(a)Anthracene	56553		0.0028 l	0.031 l
61	Benzo(a)Pyrene	50328		0.0028 l	0.031 l
62	Benzo(b)Fluoranthene	205992		0.0028 l	0.031 l
63	Benzo(ghi)Perylene	191242			
64	Benzo(k)Fluoranthene	207089		0.0028 l	0.031 l
65	Bis(2-Chloroethoxy) Methane	111911			
66	Bis(2-Chloroethyl) Ether	111444		0.031 cl	1.4 cl
67	Bis(2-Chloroisopropyl) Ether	108601		1400 c	170000 c
68	Bis(2-Ethylhexyl) Phthalate	117817		1.8 cl	5.9 cl
69	4-Bromophenyl Phenyl Ether	101553			
70	Butylbenzyl Phthalate	85687			
71	2-Chloronaphthalene	91587			
72	4-Chlorophenyl Phenyl Ether	7005723			
73	Chrysene	218019		0.0028 l	0.031 l
74	Dibenzo(a,h)Anthracene	53703		0.0028 l	0.031 l
75	1,2-Dichlorobenzene	95501		2700 c	17000 c
76	1,3-Dichlorobenzene	541731		400	2600
77	1,4-Dichlorobenzene	106467		400	2600
78	3,3'-Dichlorobenzidine	91941		0.04 cl	0.077 cl
79	Diethyl Phthalate	84662		23000 c	120000 c
80	Dimethyl Phthalate	131113		313000	2900000
81	Di-n-Butyl Phthalate	84742		2700 c	12000 c
82	2,4-Dinitrotoluene	121142		0.11 l	9.1 l

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Water Quality Standards/Wastewater Treatment Reqs.

Docket No. 58-0102-0303
PENDING RULE

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
83	2,6-Dinitrotoluene	606202			
84	Di-n-Octyl Phthalate	117840			
85	1,2-Diphenylhydrazine	122667		0.040 cl	0.54 cl
86	Fluoranthene	206440		300 c	370 c
87	Fluorene	86737		1300 c	14000 c
88	Hexachlorobenzene	118741		0.00075 cl	0.00077 cl
89	Hexachlorobutadiene	87683		0.44 cl	50 cl
90	Hexachloro-cyclopentadiene	77474		240 c	17000 c
91	Hexachloroethane	67721		1.9 cl	8.9 cl
92	Ideno (1,2,3-cd) Pyrene	193395		0.0028 l	0.031 l
93	Isophorone	78591		8.4 cl	600 cl
94	Naphthalene	91203			
95	Nitrobenzene	98953		17 c	1900 c
96	N-Nitrosodimethylamine	62759		0.00069 cl	8.1 cl
97	N-Nitrosodi-n-Propylamine	621647			
98	N-Nitrosodiphenylamine	86306		5.0 cl	16 cl
99	Phenanthrene	85018			
100	Pyrene	129000		960 c	11000 c
101	1,2,4-Trichlorobenzene	120821			
102	Aldrin	309002	3	0.00013 cl	0.00014 cl
103	alpha-BHC	319846		0.0039 cl	0.013 cl
104	beta-BHC	319857		0.014 cl	0.046 cl
105	gamma-BHC (Lindane)	58899	2	0.019 l	0.063 l
106	delta-BHC	319868			
107	Chlordane	57749	2.4	0.00057 cl	0.00059 cl
108	4,4'-DDT	50293	1.1	0.00059 cl	0.00059 cl

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A		B Aquatic life		Human health for consumption of:			
(Number) Compound		^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2	
109	4,4'-DDE	72559			0.00059 cl	0.00059	cl
110	4,4'-DDD	72548			0.00083 cl	0.00084	cl
111	Dieldrin	60571	2.5	0.0019	0.00014 cl	0.00014	cl
112	alpha-Endosulfan	959988	0.22	0.056	0.93 c	2.0	c
113	beta-Endosulfan	33213659	0.22	0.056	0.93 c	2.0	c
114	Endosulfan Sulfate	1031078			0.93 c	2.0	c
115	Endrin	72208	0.18	0.0023	0.76 c	0.81	c
116	Endrin Aldehyde	7421934			0.76 c	0.81	c
117	Heptachlor	76448	0.52	0.0038	0.00021 cl	0.00021	cl
118	Heptachlor Epoxide	1024573	0.52	0.0038	0.00010 cl	0.00011	cl
119	Polychlorinated Biphenyls PCBs:	n		0.014 n	0.00017 o	0.00017	o
120	Toxaphene	8001352	0.73	0.0002	0.00073 cl	0.00075	cl
121	Chlorine		19 k	11 k			
<p>Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.</p> <p>Table Footnotes</p> <p>a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.</p> <p>b. See Definitions, Section 003 of these rules.</p> <p>c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.</p> <p>d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.</p> <p>e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03. bc.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.</p> <p>f. Criterion expressed as total recoverable (unfiltered) concentrations.</p>							

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A		B Aquatic life		Human health for consumption of:	
(Number) Compound	^a CAS Number	^b CMC (µg/L) B1	^b CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
<p>g. If the CCC for total mercury is exceeded more than once in a three (3) year period in ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (one (1.0) mg/kg). If the FDA action level is exceeded, the Director must notify the EPA regional administrator, initiate a review and as appropriate, revision of its mercury criterion in these water quality standards, and take other appropriate action such as the issuance of fish consumption advisory for the affected area.</p>					
<p>h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.</p>					
<p>i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.b.ii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).</p>					
<p>j. Criteria are expressed as weak acid dissociable (WAD) cyanide.</p>					
<p>k. Total chlorine residual concentrations.</p>					
<p>l. This criterion is based on carcinogenicity of 10⁻⁶ risk.</p>					
<p>m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)</p>					
<p>n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.</p>					
<p>o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).</p>					

~~(5-3-03)~~(10-24-03)T

02. Factors For Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations:
(5-3-03)

a. $CMC = WER \exp\{m_A[\ln(\text{hardness})] + b_A\}$ X Acute Conversion Factor. (5-3-03)

b. $CCC = WER \exp\{m_C[\ln(\text{hardness})] + b_C\}$ X Chronic Conversion Factor.

Metal	m_A	b_A	m_C	b_C	^a Acute Conversion Factor	^a Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0

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Cadmium	1.1228	-3.828	0.7852	-3.490	0.944	0.909
Chromium (III)	0.819	3.688	0.8190	1.561	0.316	0.860
<u>Chromium (VI)</u>	<u>b</u>	<u>b</u>	<u>b</u>	<u>b</u>	<u>0.982</u>	<u>0.962</u>
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
<u>Mercury</u>	<u>b</u>	<u>b</u>	<u>b</u>	<u>b</u>	<u>0.85</u>	<u>b</u>
Nickel	0.846	3.3612	0.8460	1.1645	0.998	0.997
Selenium	b	b	b	b	0.922	b
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.8604	0.8473	0.7614	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute: $CF = 1.136672 - [(\ln \text{hardness})(0.041838)]$

Chronic: $CF = 1.101672 - [(\ln \text{hardness})(0.041838)]$

Lead (Acute and Chronic): $CF = 1.46203 - [(\ln \text{hardness})(0.145712)]$

b. Not applicable

c. No chronic criteria are available for silver.

~~(5-3-03)~~(10-24-03)T

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone of the mixing zones; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (5-3-03)

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams due to permitted discharges when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

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(5-3-03)

i. Where “1Q10” is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where “1B3” is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

iii. Where “7Q10” is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where “4B3” is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA’s computerized method (DFLOW model); (5-3-03)

v. Where “30Q5” is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (5-3-03)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant’s acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge

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conditions established in Subsection 210.03.b. For purposes of ~~Subsection 210.03.c.iii.~~ calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC50) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC50) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of ~~Subsection 210.03.c.iii.~~ calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.~~bc.ii.~~ Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (5-3-03)(10-24-03)T

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. “Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria,” EPA, October 1993. (4-5-00)

b. “Guidance Document on Dynamic Modeling and Translators,” EPA, August 1993. (4-5-00)

c. “Guidance Document on Clean Analytical Techniques and Monitoring,” EPA, October 1993. (4-5-00)

d. “Interim Guidance on Determination and Use of Water-Effect Ratios for Metals,” EPA, February 1994. (4-5-00)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

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iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 10⁻⁶ shall be utilized. (4-5-00)

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: In November 2003 this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, January 7, 2004 Volume 04-1, pages 225 and 226. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE, SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Dated this 11th day of March, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective November 14, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment Reqs.

Docket No. 58-0102-0401
PENDING RULE

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 23, 2004. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to update the Idaho Water Quality Standards to be consistent with the Snake River Hell's Canyon TMDL temperature and regional temperature criteria guidance. This temporary/proposed rule revises the salmonid spawning and incubation temperature criteria to 13°C as a maximum weekly maximum temperature.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit and is necessary to comply with federal deadlines.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before February 6, 2004.

DATED this 14th day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

Senate Resource and Environment Committee

DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Standards/Wastewater Treatment Reqs.

Docket No. 58-0102-0401
PENDING RULE

(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

**286. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3;
SITE-SPECIFIC CRITERIA FOR WATER TEMPERATURE.**

A maximum weekly maximum temperature of thirteen degrees C (13C) to protect fall chinook spawning and incubation applies from October 23rd through April 15th in the Snake River from Hell's Canyon Dam to the Salmon River. (11-14-03)T

2867. -- 299. (RESERVED).

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Vol. 04-7, pages 92 through 111. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking removes a rule which regulates an activity not regulated by the federal government.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502 or clavelle@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing

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will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: This proposed rule implements the provisions of the Drinking Water and Wastewater Professionals Licensing Act, Senate Bill 1279, wherein the Legislature transferred authority for the licensure of drinking water and wastewater operators from the Department of Environmental Quality to a Governor appointed Drinking Water and Wastewater Professional Board and the Idaho Bureau of Occupational Licenses. This rulemaking will delete Sections 405, 406, 407, 408, 409, 411, 412, 413 and some definitions that include requirements for mandatory wastewater operator certification. Sections 403, 404, 410, and some definitions, which pertain to wastewater treatment and collection system certification and classification, will be retained and modified as necessary.

Wastewater operators, operator trainers, Association of Idaho Cities, Association of Idaho Counties, Pacific Northwest Clean Water Association, water and sewer districts, wastewater treatment system and collection system owners, wastewater permit holders, wastewater permit programs, special interest groups, and the general public may be interested in commenting on this proposed rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Nancy Bowser at (208) 373-0406 or nbowser@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

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Dated this 2nd day of June, 2004.

Paula J. Wilson
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

003. Definitions.

For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," the following definitions apply: (4-5-00)

01. Acute. Involving a stimulus severe enough to rapidly induce a response; in aquatic toxicity tests, a response measuring lethality observed in ninety-six (96) hours or less is typically considered acute. When referring to human health, an acute effect is not always measured in terms of lethality. (3-20-97)

02. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. Acute criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "acute criteria" and "criterion maximum concentration" (CMC) are equivalent. (3-15-02)

03. Acute Toxicity. The existence of mortality or injury to aquatic organisms resulting from a single or short-term (i.e., ninety-six (96) hours or less) exposure to a substance. As applied to toxicity tests, acute toxicity refers to the response of aquatic test organisms to a concentration of a toxic substance or effluent which results in a LC-50. (3-20-97)

064. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Available. Based on public wastewater system size, complexity, and variation in raw waste, a ~~certified~~ licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-2-03)()

076. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the department will determine where background conditions should be

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measured. (8-24-94)

087. Basin Advisory Group. No less than one advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

048. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

09. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

10. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

11. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (8-24-94)

12. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

13. Board. The Idaho Board of Environmental Quality. (7-1-93)

~~**14. Certificate.** Documentation of competency issued by the Director stating that the person to be certified has met requirements for a specific classification of the public wastewater operator certification program. (4-2-03)~~

154. Chronic. Involving a stimulus that lingers or continues for a relatively long period of time, often one-tenth (.01) of the life span or more. Chronic should be considered a relative

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term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality. (8-24-94)

165. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. Chronic criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “chronic criteria” and “criterion continuous concentration” (CCC) are equivalent. (3-15-02)

176. Chronic Toxicity. The existence of mortality, injury, reduced growth, impaired reproduction, or any other adverse effect on aquatic organisms resulting from a long-term (i.e., one-tenth (0.1) or more of the organism's life span) exposure to a substance. As applied to toxicity tests, chronic toxicity refers to the response of aquatic organisms to a concentration of a toxic substance or effluent which results in an IC-25. (8-24-94)

17. Collection System. That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. ()

18. Compliance Schedule Or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

~~**19. Continuing Education Unit (CEU).** An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-2-03)~~

~~**2019. Criterion Continuous Concentration (CCC).** Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. The CCC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “criterion continuous concentration” and “chronic criteria” are equivalent. (3-15-02)~~

~~**240. Criterion Maximum Concentration (CMC).** Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. The CMC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms “criterion maximum concentration” and “acute criteria” are equivalent. (3-15-02)~~

~~**221. Daily Mean.** The average of at least two (2) appropriately spaced measurements, acceptable to the department, calculated over a period of one (1) day: (3-20-97)~~

~~**a.** Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)~~

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b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

232. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

243. Department. The Idaho Department of Environmental Quality. (7-1-93)

254. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

265. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department's division of environmental quality for all other activities. (3-20-97)

276. Designated Beneficial Use Or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

287. Desirable Species. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

298. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

3029. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (8-24-94)

340. Disinfection. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (7-1-93)

321. Dissolved Oxygen (DO). The measure of the amount of oxygen dissolved in the water, usually expressed in mg/l. (7-1-93)

332. Dissolved Product. Petroleum product constituents found in solution with water. (8-24-94)

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343. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

354. E. coli (Escherichia coli). A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)

365. Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

376. Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

387. EPA. The United States Environmental Protection Agency. (7-1-93)

398. Ephemeral Waters. A stream, reach, or water body that flows only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-5-00)

4039. Existing Beneficial Use Or Existing Use. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (8-24-94)

440. Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

421. Fecal Coliform. The portion of the coliform group of bacteria present in the gut and feces of warm-blooded animals, usually expressed as number of organisms/one hundred (100) ml of sample. (7-1-93)

432. Four Day Average. The mean of the twenty-four (24) hour average values calculated over a period of ninety-six (96) consecutive hours. (3-20-97)

443. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

454. Full Protection, Full Support, Or Full Maintenance Of Designated Beneficial Uses Of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

465. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the

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product of the quantities. (7-1-93)

476. Ground Water. Subsurface water comprising the zone of saturation. (8-24-94)

487. Harmonic Mean Flow. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)

498. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

5049. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

540. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur. (8-24-94)

521. Hypolimnion. The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. (8-20-97)

532. Inhibition Concentration-25 (IC-25). A point estimate of the toxicant concentration that would cause a twenty-five percent (25%) reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose-response relationship. An IC-25 is approximately the analogue of NOEC. (8-24-94)

543. Instantaneous Concentration. A concentration of a substance measured at any moment (instant) in time. (8-24-94)

554. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

565. Intermittent Waters. A stream, reach, or water body which has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)

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576. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (8-24-94)

587. LC-50. The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

58. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ()

59. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

60. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

61. Lower Water Quality. A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-20-97)

62. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)

63. Man-Made Waterways. Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)

64. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period. The MWMT is the single highest WMT that occurs during a given year. (3-15-02)

65. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

66. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

67. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

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68. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (3-15-02)

69. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

70. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

- a.** Irrigated and nonirrigated lands used for: (7-1-93)
 - i.** Grazing; (7-1-93)
 - ii.** Crop production; (7-1-93)
 - iii.** Silviculture; (7-1-93)
- b.** Log storage or rafting; (7-1-93)
- c.** Construction sites; (7-1-93)
- d.** Recreation sites; (3-20-97)
- e.** Septic tank disposal fields. (8-24-94)
- f.** Mining; (3-20-97)
- g.** Runoff from storms or other weather related events; and (3-20-97)
- h.** Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

71. No Observed Adverse Effect Level (NOAEL). A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)

72. No Observed Effect Concentration (NOEC). The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)

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73. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

74. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

75. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

76. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

77. Operating ~~Experience~~ Personnel. ~~The number of years spent in performance of duties at a~~ Any person who is employed, retained, or appointed to make system control or system integrity decisions about water quantity or water quality that may affect public health as part of the tasks conducted with the day-to-day operation and maintenance of a public wastewater system. (4-2-03)()

78. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

~~79. Operator Certifying Entity.~~ ~~An organization that contracts with the Department to provide public wastewater operator certification services.~~ (4-2-03)

~~80~~79. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

~~84~~0. Outstanding Resource Water Mixing Zone. An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

~~82~~1. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

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832. Owner Of Public Wastewater System. For purposes of Sections 403 through 41305, the person, company, corporation, district, association or other organizational entity which holds legal title to the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation. (4-2-03)()

843. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

854. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

865. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

876. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

887. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

898. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (7-1-93)

9089. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (7-1-93)

940. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

921. Public Wastewater System Or Wastewater System. For purposes of Sections

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403 through ~~413~~405, a public wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. (4-2-03)()

932. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

943. Recharge. The process of adding water to the zone of saturation. (7-1-93)

954. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)

~~**96. Reciprocity.** A system by which operator certificates issued by any other operator certification program are recognized as valid and equal to Idaho's Certification Program provision.~~ (4-2-03)

975. Reference Stream Or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

986. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

997. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

- a. Are usually present at the site; (8-24-94)
- b. Are present only seasonally due to migration; (8-24-94)
- c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)
- d. Were present at the site in the past but are not currently due to degraded conditions,

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and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

~~10098~~. Responsible Charge (RC). For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. (4-2-03)

99. Responsible Charge Operator. For purposes of Sections 403 through 405, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. ()

1040. Responsible Persons In Charge. Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

1021. Saturated Zone. Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)

1032. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)

1043. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

1054. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

1065. Short-Term Or Temporary Activity. An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection

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080.02. (3-20-97)

1076. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

1087. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

1098. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

b. To maintain current beneficial use. (7-1-93)

1409. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

1140. State. The state of Idaho. (7-1-93)

1121. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

1132. Steady-State Model. A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations. (8-24-94)

1143. Substitute Responsible Charge Operator. A public wastewater operator holding a valid ~~certificate~~ license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-2-03)()

1154. Subsurface Disposal. Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds. (7-1-93)

1165. Suspended Sediment. Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)

1176. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed

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in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

1187. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.

(8-24-94)

1198. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent.

(8-24-94)

12019. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act.

(8-24-94)

1240. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater.

(7-1-93)

1221. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. This definition does not apply to Sections 403 through 413.

(4-2-03)

1232. Trihalomethane (THM). THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine.

(7-1-93)

1243. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean.

(3-20-97)

1254. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or

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desirable species of lake dwelling fishes. (8-24-94)

1265. User. Any person served by a public wastewater system. (4-2-03)

~~**127. Validated Examination.** An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility. (4-2-03)~~

~~**128. Waiver.** For purposes of Subsection 409.09 (Professional Growth Requirement), "waiver" means the deferral of the annual continuing education units (CEUs) required for operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required CEUs by the certification renewal date (March 1). (4-2-03)~~

1296. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

13027. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

~~**131. Wastewater Land Application Endorsement.** A non-renewable, one-time examination to determine competency of an operator working with a wastewater land application system. This examination may be taken in conjunction with the certification examination equal to or greater than the classification of the wastewater system or subsequent to having already taken and passed the certification examination equal to or greater than the classification of the wastewater system. (4-2-03)~~

1328. Wastewater Collection System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment. (4-2-03)

13329. Wastewater Treatment Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

403. Classification Of Wastewater Systems.

01. Classification Requirement. All public wastewater systems ~~will~~ shall be classified based on indicators of potential health risks. ~~(4-2-03)~~()

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a. Classification rating forms developed in accordance with the criteria in Subsection 403.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions. ~~The Department will review the rating forms and classify the systems.~~ (4-2-03)()

b. The Department ~~will~~ shall review system classifications rating forms submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and ~~make revisions~~ classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals. (4-2-03)()

02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-2-03)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-2-03)

b. Complexity or size of collection systems. (4-2-03)

c. Other criteria deemed necessary to completely classify systems. (4-2-03)

404. Wastewater System Operator ~~Certification~~ Licensure Requirements.

01. System Operator ~~Certification~~ Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid ~~certification~~ license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) ~~certificates~~ licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. (4-2-03)()

02. Responsible Charge Operator ~~Certification~~ License Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid ~~certification~~ license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. (4-2-03)()

03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-2-03)

04. Wastewater Operator ~~Certification~~ Licensure. All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid ~~certification~~ license. (4-2-03)()

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05. Compliance Deadline. All public wastewater systems addressed in these rules shall be in compliance with these rules by April 15, 2006. (4-2-03)

06. Qualifications For ~~Certification~~ Operator Licensure. ~~To qualify for a certificate an applicant must meet requirements of employment, education, experience, and examination as described in Section 406 or Section 407. Applicants may also receive certification through grandparenting as described in Section 405 or through reciprocity upon evaluation of his or her qualifications and comparison of Idaho certification rules to those of another state on a case-by-case basis. All wastewater operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses.~~ (4-2-03)()

07. ~~Administration Of The Certification Program.~~ ~~Administration of all aspects of the public wastewater system operator certification program in Idaho shall be the responsibility of the Department.~~ (4-2-03)

08. ~~Contractor Activities.~~ ~~All administrative activities contracted to an operator certifying entity will be carried out in accordance with these rules.~~ (4-2-03)

09. ~~Optional Wastewater Operator Certification.~~ ~~Any operator of a wastewater system not required to meet this rule may choose to become certified in accordance with the criteria in Sections 405, 406 407 or 408. Upon issuance of a certificate, the operator is subject to certification renewal requirements referenced in Section 409.~~ (4-2-03)

~~405. Grandparenting.~~

01. ~~Grandparenting Certificate.~~ ~~The Department may issue a grandparenting certificate only to a wastewater operator who was in responsible charge of an existing public wastewater system as of April 15, 2003. The grandparenting certificate will be site specific and non-transferable and can only be issued to a wastewater operator of a system that has demonstrated his or her competency to the Director and which, because of state law changes to meet these rules, a system must have a certified wastewater operator for the first time.~~ (4-2-03)

02. ~~Application Limitations.~~ ~~The owner of the system must submit an application to the Department for grandparenting by April 15, 2006. Applicants shall be subject to an application fee to cover processing costs.~~ (4-2-03)

03. ~~Certification Limitations.~~ ~~Upon receiving a grandparenting certificate the wastewater operator shall be required to meet renewal requirements including but not limited to continuing education and renewal fee requirements.~~ (4-2-03)

04. ~~Wastewater System Classification Limitations.~~ ~~If the classification of the wastewater system changes to a higher classification then the grandparenting certification is no longer valid.~~ (4-2-03)

05. ~~One System Limitation.~~ ~~A wastewater operator who is the wastewater operator in responsible charge of more than one (1) public wastewater system shall not be grandparented.~~ (4-2-03)

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~~06. Grandparent Professional Growth Requirement.~~ In the first certification renewal cycle, every grandparented operator must complete and show documentation of completion of a one-time training requirement. The one-time training shall include all information covered by the qualifying certification exam for the certification class the operator holds. Following the first renewal cycle, the operator must meet the professional growth requirements described in Subsection 409.09. (4-2-03)

~~406. Certification Requirements For A Wastewater Treatment Operator.~~

Every operator shall submit an application to the Department and meet the criteria in Section 406 to qualify for a certification classification in lagoons, wastewater treatment and, where applicable, in wastewater land application. See Section 407 for certification requirements for a public wastewater collection system operator. Applicants shall be subject to an application fee to cover examination and processing costs. (4-2-03)

~~01. Employment Requirement.~~ Except for an Operator In Training (OIT) Classification, applicants for certification must be currently employed or working in the wastewater field. (4-2-03)

~~02. Examination Requirement.~~ Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures. A wastewater land application operator operating a wastewater land application system is required to take and pass a written wastewater land application endorsement examination. (4-2-03)

~~03. Education And Experience Requirements.~~ (4-2-03)

~~a. Basic Education and Experience Certification Requirements.~~ (4-2-03)

~~i. To qualify for an Operator In Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a "one-time" non-renewable certificate of "Operator In Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator In Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater treatment system.~~ (4-2-03)

~~ii. To qualify for a Lagoon certificate, an operator must have a high school diploma or GED and twelve (12) months of acceptable experience operating a Lagoon system.~~ (4-2-03)

~~iii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher treatment system.~~ (4-2-03)

~~iv. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience of a Class I or higher treatment system.~~ (4-2-03)

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~~v. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class II or higher treatment system, including two (2) years active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class. (4-2-03)~~

~~vi. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class III or higher treatment system, including two (2) years of active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class. (4-2-03)~~

~~vii. To qualify for a Wastewater Land Application Endorsement, an operator must have a high school diploma or GED and the minimum operating experience appropriate to the classification of the wastewater system. (4-2-03)~~

~~b. Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below: (4-2-03)~~

~~i. For Class I or Lagoon certificate, no substitution for operating experience shall be permitted. (4-2-03)~~

~~ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (4-2-03)~~

~~iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however, the applicant must still have one (1) year of active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. (4-2-03)~~

~~iv. Education substituted for operating experience shall not also be applied to the education requirement. (4-2-03)~~

~~v. One (1) year of post high school education, other than described in Subsections 406.03.b.ii. and 406.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. (4-2-03)~~

~~e. Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: (4-2-03)~~

~~i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. (4-2-03)~~

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~~ii. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education. (4-2-03)~~

~~d. Substituting Experience for Experience. Where applicable, up to one-half (1/2) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following: (4-2-03)~~

~~i. Experience as an environmental or operations consultant; (4-2-03)~~

~~ii. Experience in an environmental or engineering branch of federal, state, county, or local government; (4-2-03)~~

~~iii. Experience as a wastewater collection system operator; (4-2-03)~~

~~iv. Experience as a wastewater treatment plant operator; (4-2-03)~~

~~v. Experience as a water distribution system operator and/or manager; (4-2-03)~~

~~vi. Experience as a water treatment plant operator; or (4-2-03)~~

~~vii. Experience in waste treatment operation and maintenance. (4-2-03)~~

~~e. Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: (4-2-03)~~

~~i. High School — High School diploma, a GED, or other equivalent. (4-2-03)~~

~~ii. College — Thirty five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). (4-2-03)~~

~~iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty five (45) CEUs equals one (1) year of college. (4-2-03)~~

~~407. Certification Requirements For A Wastewater Collection System Operator.~~

~~Every operator shall submit an application to the Department and shall meet the criteria in this Section to qualify for a certification classification in wastewater collections. Applicants shall be subject to an application fee to cover examination and processing costs. (4-2-03)~~

~~**01. Employment Requirement.** Except for an Operator In Training (OIT) Classification, applicants for certification must be currently employed or working in the wastewater field. (4-2-03)~~

~~**02. Examination Requirement.** Applicants must pass a written validated examination~~

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~~with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures.~~ (4-2-03)

~~**03. Education And Experience Requirements.**~~ (4-2-03)

~~**a. Basic Education and Experience Certification Requirements.**~~ (4-2-03)

~~i. To qualify for an Operator In Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a "one-time" non-renewable certificate of "Operator In Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator In Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater collection system.~~ (4-2-03)

~~ii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher collection system.~~ (4-2-03)

~~iii. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience.~~ (4-2-03)

~~iv. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.~~ (4-2-03)

~~v. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.~~ (4-2-03)

~~**b. Substituting Education for Experience.** Applicants may substitute education for operating and responsible charge experience as specified below:~~ (4-2-03)

~~i. For Class I certificate, no substitution for operating experience shall be permitted.~~ (4-2-03)

~~ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience.~~ (4-2-03)

~~iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience.~~ (4-2-03)

~~iv. Education substituted for operating experience shall not also be applied to education requirement.~~ (4-2-03)

~~v. One (1) year of post high school education, other than described in Subsections~~

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~~407.03.b.ii. and 407.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class. (4-2-03)~~

~~**e.** Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below: (4-2-03)~~

~~i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. (4-2-03)~~

~~ii. For Class III and IV, responsible charge experience may be substituted for post high school education on a two (2) for one (1) basis: two (2) years responsible charge = one (1) year post high school education. (4-2-03)~~

~~**d.** Substituting Experience for Experience. Where applicable, up to one-half (1/2) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following: (4-2-03)~~

~~i. Experience as an environmental or operations consultant; (4-2-03)~~

~~ii. Experience in an environmental or engineering branch of federal, state, county, or local government; (4-2-03)~~

~~iii. Experience as a wastewater collection system operator; (4-2-03)~~

~~iv. Experience as a wastewater treatment plant operator; (4-2-03)~~

~~v. Experience as a water distribution system operator and/or manager; (4-2-03)~~

~~vi. Experience as a water treatment plant operator; or (4-2-03)~~

~~vii. Experience in waste treatment operation and maintenance. (4-2-03)~~

~~**e.** Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: (4-2-03)~~

~~i. High School—High School diploma, a GED, or other equivalent. (4-2-03)~~

~~ii. College—Thirty five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). (4-2-03)~~

~~iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty five (45) CEUs equals one (1) year of college. (4-2-03)~~

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~~408. Reciprocity.~~

~~The Director may waive examination requirements for applicants holding certificates or licenses issued by other States which have equivalent certification requirements. Applicants shall be subject to an application fee to cover processing costs.~~ (4-2-03)

~~409. Certificates And Renewals.~~

~~01. Certificate Issuance.~~ ~~Upon satisfying the requirements of Section 405, 406, 407 or 408, a certificate will be issued to the applicant designating his or her level of operating competency.~~ (4-2-03)

~~02. Certificate Renewal.~~ ~~Operators shall be subject to payment of fees and professional growth requirements to qualify for certificate renewal. Renewal fees shall be based on processing costs. Certificates shall be valid for two (2) years, beginning on March 1 of the year of issuance.~~ (4-2-03)

~~03. Grandparent Certificate Issuance Limitation.~~ ~~A grandparent certification shall not be issued within seventy-five (75) days of the certification renewal deadline in Subsection 409.02 to allow the grandparented operator sufficient time to meet the professional growth requirement referenced in Subsection 409.09.~~ (4-2-03)

~~04. Invalidity Of Certificates.~~ ~~Certificates for which the renewal fees and evidence of completion of approved training, as referenced in Subsection 409.09, are not received within sixty (60) days after the expiration date will be invalid.~~ (4-2-03)

~~05. Renewal Of Invalidated Certificates.~~ ~~Wastewater system operators whose certificates are invalidated may be renewed for up to two (2) years provided appropriate proof of competency is presented and reinstatement fees are paid.~~ (4-2-03)

~~06. Recertification.~~ ~~Wastewater system operators who have failed to renew or qualify for renewal of certificate(s) beyond two (2) years must recertify and provide appropriate proof of competency.~~ (4-2-03)

~~07. Certificate Issuance.~~ ~~Appropriate classification will be issued to wastewater system operators who, on the effective date of a mandatory program, hold valid wastewater certificates attained by examination under the voluntary program.~~ (4-2-03)

~~08. Certificate Signatures.~~ ~~Certificates shall be signed by the Director or his designee.~~ (4-2-03)

~~09. Professional Growth Requirement.~~ ~~Renewal of a certificate shall be based on demonstrations of continued professional growth in the field. A wastewater system operator shall submit satisfactory evidence of completion of approved training of a minimum one point two (1.2) CEUs as a condition for renewal of the certificate. The certification renewal period shall be two (2) years from March 1 through February 28 (29). It is the obligation of the wastewater system operator to present proof of CEUs earned along with the renewal fee. A wastewater system operator holding more than one (1) certificate issued under these wastewater rules need only~~

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~~complete the training required to satisfy renewal requirements for one (1) of these wastewater certificates.~~ (4-2-03)

~~**10. Temporary Professional Growth Waiver.** The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsections 405.06 and 409.09 for certified wastewater system operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the renewal deadline. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsections 405.06 or 409.09 for the certification renewal cycle in progress at the time the operator returns to the state.~~ (4-2-03)

4405. Contracting For Services.

Public wastewater systems ~~that do not have a certified public wastewater system operator~~ may contract with a ~~certified~~ licensed public wastewater system operator or with a public wastewater system having ~~certified~~ licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ an operator ~~certified~~ licensed at the grade equal to or greater than the classification of the system. (4-2-03)()

~~**411. Penalties.**~~

~~The Director may assess penalties in accordance with the following provisions:~~ (4-2-03)

~~**01. General Authority.** The Department may enforce these rules and seek those remedies as provided in Title 39, Chapter 1, Idaho Code.~~ (4-2-03)

~~**02. Falsification And Forgery.** Any person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed or registered, or recorded under any law of this state, or of the United States, is guilty of a felony. Section 18-3203, Idaho Code.~~ (4-2-03)

~~**03. Civil Penalties.** Pursuant to Section 39-108, Idaho Code, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense and for continuing violations, each day's violation is separate and distinct.~~ (4-2-03)

~~**412. Suspension, Reduction Or Revocation.**~~

~~**01. Suspension, Reduction Or Revocation Of An Operator's Certificate.** The Director may suspend, reduce, or revoke a wastewater operator certificate, following notice and an opportunity for a hearing before the Board when the following conditions are found:~~ (4-2-03)

~~**a.** It is found that the individual holding the wastewater certificate has engaged in misconduct such as fraud, falsification of the application, or falsification of operating records.~~ (4-2-03)

~~**b.** The individual holding the wastewater certificate has failed to perform his or her duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules.~~ (4-2-03)

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~~e. It is found that the individual holding the wastewater certificate has failed to use reasonable care and judgment in the performance of his duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules, or the application of his knowledge and ability in the performance of his duties is unsatisfactory.~~ (4-2-03)

~~02. Appeals. In the event of a decision to suspend, reduce or revoke a certificate under the conditions set forth in Section 412, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6) and 39-107(7), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality".~~ (4-2-03)

~~**413. Advisory Group.**~~

~~Stakeholder Involvement. Ongoing stakeholder involvement may be provided through a wastewater advisory committee at the Department.~~ (4-2-03)

~~**41406. -- 419. (Reserved).**~~

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Title 39, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 2, 2004, Volume 04-6, pages 49 through 67. DEQ received comments from the public. The proposed rule has been revised at Sections 001, 200, 300, 600, 601, and 602. The remaining sections have been adopted as initially proposed and have not been republished with this notice. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to the Wastewater-Land Application Permit Rules, IDAPA 58.01.17. The requirements set forth in this rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

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The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The limits for Five Day Biochemical Oxygen Demand (BOD₅), Total Organic Carbon (TOC), and Total Suspended Solids (TSS) for Class A Reclaimed Wastewater (5 mg/L each) are based on the study of limits in other states. These measurable quantities are indicators of the effectiveness of treatment and not direct measurements of risk to human health. There are several states that presently regulate this type of wastewater reuse. Some states have lower limits and some have higher limits in their rules. DEQ evaluated the various limits used by other states and used limits in the rule that it believes are reasonable and protective given the associated risks. Until the reliability of various treatment facilities in Idaho has shown overall protectiveness to human health and the environment, DEQ feels that these limits are required to protect the citizens and environment of Idaho.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations.

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The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of 2.2 total coliform limit is in the existing Wastewater-Land Application Permit Rules.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed by contacting the undersigned.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Title 39, Chapter 1, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

INFORMATIONAL MEETINGS: The Department of Environmental Quality has scheduled informational meetings regarding this rulemaking at the following locations:

**June 10, 2004, 1:30 to 3:30 p.m. PDT
Department of Environmental Quality
2110 Ironwood Parkway, Coeur d'Alene, Idaho**

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(208) 769-1422

June 16, 2004, 1 to 2 p.m. MDT
Doubletree Riverside Hotel, Liberty Room
2900 Chinden Blvd., Boise, Idaho
(208) 343-1871

(This meeting has been scheduled in conjunction with the Association of Idaho Cities Annual Conference. All are welcome to attend this informational meeting.)

June 24, 2004, 1:30 to 3:30 p.m. MDT
Department of Environmental Quality
900 N. Skyline Suite B, Idaho Falls, Idaho
(208) 528-2650

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to add an additional class of treated wastewater to the Wastewater-Land Application Rules for reuse. This will add a class of more highly treated wastewater that can be used for more purposes, including aquifer recharge, residential irrigation, toilet flushing, water features, etc. This rulemaking will add definitions; additional application requirements for this new class including engineering report requirements; treatment and monitoring requirements; requirements for municipal reuse distribution systems; and technical, managerial, financial, and legal requirements. Municipalities, industry, consulting engineers, land developers, EPA, and other government agencies may be interested in commenting on this rulemaking.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to the Wastewater-Land Application Permit Rules, IDAPA 58.01.17. The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The population affected by these limits includes the residents and

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users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the proposed limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the proposed coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The limits in these proposed rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero (0).

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Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the proposed ten (10) mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the proposed two and two-tenths (2.2) total coliform limit is currently in the Wastewater-Land Application Permit Rules.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 -815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 90.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. The comment period will run from July 7, 2004 through August 4, 2004. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 5th day of May, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

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DEPARTMENT OF ENVIRONMENTAL QUALITY Wastewater-Land Application Permit Rules

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01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, “Wastewater-Land Application Permit Rules”. (4-1-88)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for the treatment of municipal and industrial wastewaters by application to land, and the treatment of municipal wastewaters for other reuse purposes as defined in Subsection 600.07, Direct Use of Municipal *Reclaimed* Wastewater. (~~4-1-88~~)()

002. WRITTEN INTERPRETATIONS.

Any written statements pertaining to the interpretation of these rules shall be available for review at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.()

003. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 003.02 shall constitute the full adoption by reference. ()

02. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: ()

a. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.06, as codified in the 2004 Idaho Administrative Code. ()

b. IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.07, as codified in the 2004 Idaho Administrative Code. ()

03. Availability Of Documents Incorporated By Reference. Copies of the documents incorporated by reference are available at the following locations. ()

a. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ()

b. Idaho Administrative Rules website, <http://www.state.id.us/adm/adminrules/agyindex.htm>. ()

0024. -- 099. (RESERVED).

100. APPLICABILITY.

01. Existing Land Application Facilities. Those land application facilities which are in operation on the effective date of these rules are deemed to be validly permitted for up to one (1) year. Permit conditions for the first permit issued to any existing facility under these rules shall substantially conform to the existing practices of such facility unless those existing practices cause or create conditions hazardous to the public health or to the environment, or violate other laws or regulations. (4-1-88)

02. Excluded Facilities. Land application of wastewater from livestock truck washing

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facilities, feedlots, dairies and mining are excluded from permit requirements under these rules but are subject to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". The Director may exclude other facilities if covered adequately by other law. (12-31-91)()

101. -- 199. (RESERVED).

200. DEFINITIONS.

For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a wastewater land application permit. ()

042. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

023. Board. The Idaho State Board of Environmental Quality. (12-31-91)

04. Buffer Distances. The distances between the actual land application of wastewater and other uses such as wells, adjoining property, inhabited dwellings, and other features. These distances are further defined in The Idaho Guidance for Land Application of Municipal and Industrial Wastewater. ()

05. Class A Capacity. The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. ()

06. Class A Effluent Distribution System. The distribution system for Class A effluent as described in these rules. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements of IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 404. ()

037. Department. The Idaho Department of Environmental Quality. (4-1-88)

048. Director. The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)

09. Idaho Guidance For Land Application Of Municipal And Industrial Wastewater. This document, *and subsequent revisions of this document*, provides assistance for permitting and operating land application facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 *and* www.deq.idaho.gov. ()

0510. Land Application Facility Or Facility. Any structure or system designed or used to treat wastewater through application to the land surface. (4-1-88)

0611. Municipal Wastewater. Waste water that contains sewage. (4-1-88)

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~~07~~**12. New Activity.** Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)

~~08~~**13. Non-Contact Cooling Water.** Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)

14. NTU. Nephelometric Turbidity Unit - a unit of measurement of the level of turbidity. ()

~~09~~**15. Permit.** Written authorization by the Director to land apply or discharge wastewater, other than to surface waters of the state, as identified in the plan of operation. (4-1-88)

16. Permittee. The person to whom the wastewater land application permit is issued. ()

~~10~~**7. Person.** An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)

18. Point Of Compliance. That point in the facility where the treated effluent wastewater must meet the different limit requirements of the permit. There may be more than one (1) point of compliance within the facility depending on the constituents to be monitored. ()

~~14~~**9. Primary Effluent.** Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)

~~12~~**20. Processed Food Crop.** Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)

~~13~~**21. Rapid Infiltration System.** A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)

~~14~~**22. Raw Food Crop.** Any crop intended for human consumption which is to be used in its original form. (4-1-88)

23. Reclaimed Wastewater. For the purpose of these rules, the term reclaimed water or reuse shall mean municipal wastewater that is used in accordance with these rules. ()

~~15~~**24. Restricted Public Access.** Preventing public entry within one thousand (1,000) feet of the border of a facility by site location or physical structures such as fencing. A buffer strip less than one thousand (1,000) feet may be accepted if aerosol drift is reduced. (4-1-88)

25. Reclaimed Wastewater Facility. Any municipal structure or system designed or used to treat municipal wastewater for the purpose of reusing the effluent including, but not

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limited to, *municipal* wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the *reclaimed* wastewater is applied. ()

4626. Sewage. The water-carried human wastes from residences, buildings, industrial establishments and other places. (4-1-88)

4727. Sludge. The semi-liquid mass produced by treatment of water or wastewater. (4-1-88)

4828. Time Distribution Of Flows. A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week. (4-1-88)

4929. Wastewater. Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water. (4-1-88)

2030. Wastewater Treatment System. All phases of wastewater treatment including any pretreatment equipment and the land ~~application~~ treatment facility on which the wastewater is applied. (4-1-88)()

231. Waters And Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a land application facility or other reclaimed wastewater facility without a valid permit issued by the Director as provided in these rules. (4-1-88)()

02. Dischargers. No person shall discharge to a land application or other reclaimed wastewater facility without a valid permit issued by the Director as provided in these rules. (4-1-88)()

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

a. At least one hundred eighty (180) days prior to the day on which a new activity is to begin; (4-1-88)

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b. At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules; (4-1-88)

c. Within one hundred eighty (180) days after the effective date of these rules for any existing land application facility deemed to be permitted under these rules. (4-1-88)

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

d. A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)

e. A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)

i. Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)

ii. Wells, springs, wetlands, and surface waters; (4-1-88)

iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)

iv. Service roads; (4-1-88)

v. Natural or man-made features necessary for treatment; (4-1-88)

vi. Buildings and structures; and (4-1-88)

vii. Process chemicals and residue storage facilities. (4-1-88)

f. A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)

i. Wells, Springs, wetlands, and surface waters; (~~4-1-88~~)()

ii. Public and private drinking water supply sources and source water assessment

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areas (public water system protection area information); ~~(4-1-88)~~()

iii. Public roads; and (4-1-88)

iv. Dwellings and private and public gathering places. (4-1-88)

g. If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)

h. The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)

i. The physical, chemical, and biological characteristics of the wastewater; (4-1-88)

j. The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)

k. Other information may also be required. The Idaho Guidance for Land Application of Municipal and Industrial Wastewater is *intended to provide assistance to permit applicants in obtaining a wastewater land application permit.* ()

06. Existing Land Application Facility. Any existing land application facility ~~will~~ or other *reclaimed wastewater facility shall* be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. ~~(4-1-88)~~()

07. New Land Application Facility. Any new proposed land application facility ~~will~~ or other *reclaimed wastewater facility shall* be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. ~~(4-1-88)~~()

(BREAK IN CONTINUITY OF SECTIONS)

401. PLAN AND SPECIFICATION REVIEW.

The current edition of the "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," "Idaho Standards for Public Works Construction," and other Department guidance shall be used as guides for the development of plans and specifications for all waste treatment facilities in accordance with IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402. The Department may review the project plans and specifications and the permit application materials concurrently. Plans and specifications may require modification prior to a final permit being issued. ()

01. Requirement For Single Point Of Contact Responsible For Entire Wastewater

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Project. The Applicant (Permittee) shall designate a single point of contact who is responsible for all submissions to the Department related to the wastewater facilities construction project. This single point of contact shall be identified in the permit application. ()

02. Requirement For Preparation Of Plans And Specifications. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same shall be submitted to and approved by the Director before construction can begin in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402. ()

03. Requirement For Professional Engineer's Seal. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same, wherein the public welfare or the safeguarding of life, health, or property is involved, shall bear the seal, signature and date of a registered professional engineer licensed in the state of Idaho in accordance Chapter 12, Title 54, Idaho Code. ()

~~4042.~~ -- 499. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis For Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

- a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)
- b. Geological and climatic nature of the facility site; (4-1-88)
- c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)
- d. Legal considerations relative to land use and water rights; (4-1-88)
- e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)
- f. Abilities of the soils and vegetative covers to treat the wastewater without undue

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hazard to the environment or to the public health; and (4-1-88)

g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration Of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

03. Limitations To Operation. Conditions of the permit may specify or limit: (4-1-88)

a. Wastewater composition; (4-1-88)

b. Method, manner, and frequency of wastewater treatment; (4-1-88)

c. Wastewater pretreatment requirements; (4-1-88)

d. Physical, chemical, and biological characteristics of a land application facility; and (4-1-88)

e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

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06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater. (4-1-88)

a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)

b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use Of Municipal Reclaimed Wastewater. Treatment requirements applicable to direct use of municipal *reclaimed* wastewater include, but are not limited to, the following: The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. (4-1-88)()

a. Class A effluent is municipal *reclaimed* wastewater that may be used under particular circumstances for residential irrigation at individual homes (controlled only by the system operator), ground water recharge, surface spreading, seepage ponds, other unlined water features, and other appropriate uses. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. Enhanced filtration approval requirements, nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge, surface spreading, seepage ponds, and other unlined water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Class A effluent for residential irrigation should be applied only during periods of non-use. ()

a.b. ~~Where the~~ Class B effluent is municipal *reclaimed* wastewater ~~that may contact any edible portion of raw food crops, the municipal wastewater or is used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure.~~ Class B effluent shall be oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected. Class B treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. ~~The municipal wastewater~~ Class B effluent shall be considered adequately disinfected if, ~~at some location in the treatment process~~ the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of

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application. The point of compliance for Class B effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. Class B effluent shall be applied only during periods of non-use by the public. ~~(12-31-91)()~~

~~bc.~~ ~~Where the~~ Class C effluent is municipal *reclaimed* wastewater that will only contact the unedible portion of raw food crops, ~~the wastewater~~ or is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation, and other areas where individuals have access or exposure. Class C effluent shall be oxidized and adequately disinfected. ~~The municipal wastewater~~ Class C effluent shall be considered adequately disinfected if, at ~~some location in the treatment process~~ the point of compliance, the median number of total coliform organisms does not exceed ~~two and two-tenths (2.2)~~ twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last ~~seven~~ five (75) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at the entrance to the distribution system following final treatment and disinfection contact time, but before storage. Class C effluent shall be applied only during periods of non-use by the public. ~~(12-31-91)()~~

~~ed.~~ ~~Where~~ Class D effluent is municipal *reclaimed* wastewater ~~is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground,~~ that is used to irrigate fodder, seed, or processed food crops and ~~if~~. ~~(4-1-88)~~

~~i.~~ ~~Public access is not restricted, the municipal wastewater shall be of primary effluent quality~~ is oxidized and adequately disinfected. ~~The municipal wastewater~~ Class D effluent shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last ~~seven~~ three (73) days for which analyses have been completed. For Class D effluent, analysis shall be based on monthly sampling during periods of application. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. ~~(12-31-91)()~~

~~ii.~~ ~~Public access is restricted, the municipal wastewater shall be of primary effluent quality.~~ ~~(4-1-88)~~

~~e.~~ Class E effluent is municipal *reclaimed* wastewater that is used to irrigate fodder, seed, or processed food crops or forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application. ~~()~~

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~~d. Where municipal wastewater is used to irrigate fodder, seed or processed food crops if: (4-1-88)~~

~~i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Animals shall not be grazed on land where municipal wastewater is applied. (12-31-91)~~

~~ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. Animals shall not be grazed on land where municipal wastewater is applied and shall not be fed vegetation irrigated in this manner within two (2) weeks of application. (4-1-88)~~

~~e. Where municipal wastewater is used to irrigate golf courses, cemeteries, roadside vegetation, and other areas where individuals have access or exposure, the municipal wastewater shall be oxidized and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)~~

~~f. Where municipal wastewater is used to irrigate parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure, the municipal wastewater shall be oxidized, coagulated, clarified, filtered or treated by an equivalent process and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use. (12-31-91)~~

08. Direct Use Of Municipal Reclaimed Wastewater - Classification Table. The following table further describes the requirements for direct use of municipal reclaimed wastewater outlined in Subsection 600.07.

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Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
<u>Treatment</u>	<u>This is a partial list - see Section 601 for more detail: Oxidized, coagulated, clarified, with enhanced filtration <i>approval</i> requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and pilot tested.</u>	<u>Oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected and pilot tested.</u>	<u>Oxidized and adequately disinfected</u>	<u>Oxidized and adequately disinfected</u>	<u>At least primary effluent quality</u>
<u>Disinfection</u>	<u>Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters</u>	<u>Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters</u>	<u>Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters</u>	<u>Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters</u>	<u>Total coliform organisms up to "too numerous to count"</u>
<u>Uses</u>	<u>Residential irrigation at individual homes, ground water recharge, surface spreading, seepage ponds, other unlined water features, or Class B, C, D, or E uses. Other requirements apply for groundwater uses.</u>	<u>May contact any edible portion of raw food crops, or is used to irrigate golf courses, parks, playgrounds, schoolyards or Class C, D, or E uses.</u>	<u>Used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation or Class D or E uses.</u>	<u>Used to irrigate fodder, seed, or processed food crops or Class E uses.</u>	<u>Used to irrigate fodder, seed, processed food crops, or forested sites.</u>
<u>Access Restriction</u>	<u>Irrigated during periods of non-use.</u>	<u>Irrigated during periods of non-use by the public.</u>	<u>Irrigated during periods of non-use by the public.</u>	<u>Public access restricted.</u>	<u>Public access restricted.</u>

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Classification Table					
Classification	Class A	Class B	Class C	Class D	Class E
Signing and Posting	See Subsection 601.02	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>
Buffer Zones	No effluent is allowed to be <u>applied into or over natural waterways, or other conveyances that drain into natural waterways without an NPDES Permit.</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	Site specific - <u>See Idaho Guidance for Land Application of Municipal and Industrial Wastewater</u>	1000 ft. to <u>inhabited dwellings and areas accessible to the public</u>
Grazing	<u>Grazing allowed only with approved grazing management plan.</u>	<u>Grazing allowed only with approved grazing management plan.</u>	<u>Grazing allowed only with approved grazing management plan.</u>	<u>Grazing not allowed.</u>	<u>Grazing not allowed.</u>

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601. CLASS A EFFLUENT MUNICIPAL RECLAIMED WASTEWATER - ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A *effluent municipal reclaimed wastewater* systems or major upgrades to Class A *effluent municipal reclaimed wastewater* systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; pilot testing; client use issues; potential markets; potential sources of wastewater; public involvement and perception; targeted markets; allocation; preliminary investigations; staff development; treatment system upgrades *to meet Class A requirements*; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility".

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02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: ()

a. Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. Where Class A effluent is to be provided by pressure pipeline, the following applicable standards shall be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction". The above guidance documents shall be used for all new systems constructed after April 1, 2005. Requirements for irrigation systems proposed for conversion from use of non-Class A effluent water to use with Class A effluent will be considered on a case-by-case basis considering protection of public health and the environment. ()

b. Distribution Lines. ()

i. Minimum Separation. ()

(1) **Horizontal Separation.** Class A effluent distribution mains parallel to potable (culinary) water mains shall be installed in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. Class A effluent distribution mains parallel to sanitary sewer mains shall be installed at least five (5) feet horizontally from the sanitary sewer main if the sanitary sewer main is located above the Class A effluent main, and three (3) feet horizontally from the sanitary sewer main if the sanitary sewer main is located below the Class A effluent main. ()

(2) **Vertical Separation.** At crossings of Class A effluent distribution mains with potable water mains and sanitary sewer mains, the order of the mains from lowest in elevation to highest should be: sanitary sewer main, Class A effluent main, and potable water main. A minimum of eighteen (18) inches vertical separation between each of these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the Class A effluent main joints will be equidistant and as far as possible from the water main joints and the sewer main joints. If the Class A effluent water main must cross above the potable water main, the vertical separation shall be a minimum eighteen (18) inches, the Class A effluent main shall be supported to prevent settling, and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. If the Class A effluent main must cross below the sanitary sewer main, the vertical separation shall be a minimum eighteen (18) inches and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. ()

(3) **Special Provisions.** Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, for protection of potable water mains. ()

ii. Class A Effluent Pipe Identification. ()

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(1) General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet “Caution: Reclaimed Water - Do Not Drink”.

()

(2) Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, “Caution: Reclaimed Water - Do Not Drink”. The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe.

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iii. Conversion of Existing Drinking Water or Irrigation Water Lines. Existing water lines that are being converted to use with Class A effluent shall first be accurately located and comply with leak test standards in accordance with IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.06, and in coordination with the Department. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current state cross connection rules and requirements (IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.07), and must meet minimum separation requirements in Subsection 601.02.b. of these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in Subsection 601.02.b.iii. of these rules, the lines shall be approved for Class A effluent distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a wastewater effluent line, the lines shall be marked as stated in Subsection 601.02.b.ii.(2) of these rules.

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iv. Valve Boxes and Other Surface Identification. All valve covers shall be of non-interchangeable shape with locking potable water covers, and shall have an inscription cast on the top surface stating “Reclaimed Water”. Valve boxes shall meet the requirements of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” Subsection 550.06. All above ground pipes and pumps shall be consistently color coded (purple, Pantone 512) and marked to differentiate Class A effluent facilities from potable water facilities.

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v. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval.

()

c. Storage. If storage or impoundment of Class A effluent is provided, the following requirements apply:

()

i. Fencing. No fencing is required by these rules, but may be required by local laws or ordinances.

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ii. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Subsection 601.02.e.v. of these rules. Signs shall be posted on the surrounding fence at minimum five hundred (500) foot intervals and at the entrance of each facility. If there is no fence, signs shall be located at a minimum on each side of the facility or at minimum two hundred fifty (250) foot intervals or at all accessible points. ()

iii. For systems supplying irrigation water for residential lawn irrigation, minimum storage requirements shall include sufficient volume for daily use patterns, precipitation events, etc., and an alternate disposal point during non-irrigation season. ()

d. Pumping Facilities. ()

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Water - Do Not Drink". In a fenced pump station area, signs shall be posted on the fence on all sides. ()

ii. Seal Water. Any potable water used as seal water for reclaimed water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. ()

e. Other Requirements. ()

i. Backflow Protection. In no case shall a direct connection be made between the potable and Class A effluent system. If it is necessary to put potable water into the Class A effluent distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. ()

ii. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A effluent is used, or shall be otherwise protected from contact with the Class A effluent. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. ()

iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent *shall not be used with potable water or sewage. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water.* ()

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". ()

v. Warning signs. Where reclaimed water is stored or impounded, or used for

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irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed Wastewater - Do Not Drink". The signs shall include the international symbol for Do Not Drink. ()

03. Other Permits Addressed As Necessary. The following other permits may be necessary for a particular facility but are not regulated under these rules: ()

a. NPDES permits from the Environmental Protection Agency for surface water discharge. ()

b. Injection well permits from Idaho Department of Water Resources. ()

04. Filtration Technology Approval Requirements. All Class A effluent projects in Idaho must have written approval from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. The following approaches are methods by which this written approval may be obtained from the Department. ()

a. Department approval based on previous similar projects in Idaho. ()

b. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved by the Department. ()

c. The State of California Department of Health Services Treatment Technology Report for Recycled Water. ()

d. Other methods approved by the Department. ()

05. Nutrient Removal Requirements. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L based on a monthly arithmetic mean as determined from daily composite sampling. This value may be much lower depending on the results of any applicable nutrient-pathogen studies that may be required. ()

06. Turbidity Limits And Monitoring Requirements. ()

a. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train. ()

b. Class A effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. ()

07. Reliability and Redundancy Requirements. ()

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a. An alternative disposal option or diversion to adequate lined storage must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than two (2) minutes. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. ()

b. Redundant facilities, including, but not limited to, monitoring equipment and treatment trains shall be required. ()

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ()

d. Standby treatment filter units in fully operable condition capable of treating peak flow shall be plumbed and wired in place for immediate use. An alternative to this is automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ()

08. Other Class A Effluent Requirements. ()

a. Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L and Total Organic Carbon (TOC) shall not exceed five (5) mg/L based on a monthly arithmetic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance. ()

b. Total Suspended Solids (TSS) prior to disinfection shall not exceed five (5) mg/L based on a monthly arithmetic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance. ()

c. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0). ()

d. Residual Chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternate disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a one (1) mg/L free chlorine residual after thirty (30) minutes contact time. ()

e. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing *Class A effluent municipal reclaimed* wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of two thousand

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(2000) feet from any drinking water extraction well and shall also provide for a minimum of one (1) year of storage in the aquifer prior to withdrawal. The Idaho Department of Water Resources requires additional permits for ground water injection wells. ()

f. A filter to waste operational criteria is required for all Class A effluent filtration facilities for each time a filter starts up. The filter will automatically filter to waste until the effluent meets the required turbidity standard. ()

g. Additional information in the form of reports by qualified soil scientists, professional geologists, professional engineers, or other qualified individuals relating to environmental assessments, nutrient management plans, or water rights issues shall be submitted to the Department at the pre-application conference or with the application and must be approved by the Department prior to permit issuance. ()

h. Requirements for Class A effluent distribution system operators. All operators of Class A effluent distribution systems, including operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A effluent for subsequent use, shall have the following qualifications. Operators shall have a high school diploma or GED or equivalent. Operators shall be trained, by a qualified manufacturer's representative, in the use and repair of the particular distribution system to be operated. Operators shall be trained in the concepts and safety issues of wastewater reuse, including viral infection issues, by the licensed operator of the particular wastewater treatment plant providing the Class A effluent to the particular system in use. Contracts for sale of Class A effluent for subsequent use shall also require these standards. Individual homeowners shall not operate or maintain Class A effluent distribution systems. ()

602. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF CLASS A EFFLUENT RECLAIMED WASTEWATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new class A effluent *reclaimed* wastewater system until it has been demonstrated to the Department that the *new Class A effluent reclaimed* wastewater system will have adequate technical, financial, and managerial capacity. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 601.02.a. of these rules. The Applicant must obtain Department approval of the new system capacity demonstration prior to permit issuance and construction. ()

01. Technical Capacity. In order to meet this requirement, the Class A effluent *reclaimed* wastewater system shall submit documentation to demonstrate the following: ()

a. The system meets the relevant design, construction, operating and maintenance requirements of these rules; ()

b. The system has an adequate and consistent source of wastewater; ()

c. A security plan is in place to protect the wastewater source and deal with emergencies; ()

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d. The system has trained personnel with an understanding of the technical and operational characteristics of the system; ()

e. A plan for cross-connection control; ()

f. Procedures for emergency response; and ()

g. Quality assurance and quality control plans. ()

02. Financial Capacity. A demonstration of financial capacity must include, but is not limited to, the following information: ()

a. Documentation that organizational and financial arrangements are adequate to construct and operate the Class A effluent *reclaimed wastewater* distribution system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; ()

b. Demonstration of revenue sufficiency that includes, but is not limited to, billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; ()

c. Adequate fiscal controls shall be demonstrated; and ()

d. Equipment inventory controls shall be in place. ()

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new Class A effluent *reclaimed wastewater* system shall submit at least the following information to the Department: ()

a. Clear documentation of legal ownership of the Class A effluent *reclaimed wastewater* system, including collection, treatment and effluent distribution systems, and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; ()

b. The name, address, and telephone number of the person who will be accountable for ensuring that the *Class A effluent reclaimed wastewater* system is in compliance with these rules; ()

c. The name, address, and telephone number of the system operator; ()

d. A description of the manner in which the wastewater system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; ()

e. Personnel management policies and a description of staffing, including training, experience, certification or licensing, and continuing education completed by the *Class A effluent*

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reclaimed wastewater system staff; ()

f. An explanation of how the wastewater system operators will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and ()

g. Evidence of short-term and long-term planning for future growth, equipment repair and maintenance, and long term replacement of system components. ()

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. ()

05. Consolidation. In demonstrating new system capacity, the owner of the proposed new Class A effluent *reclaimed* wastewater system shall investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner shall explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. ()

06. Exclusion. New Class A effluent *reclaimed* wastewater systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, shall meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such wastewater systems shall not be required to meet any requirements of Section 602 which are in conflict with the provisions and requirements of the Idaho Public Utilities Commission. ()

~~6043.~~ -- 699. (RESERVED).

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IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

DESCRIPTIVE SUMMARY: In May 2004, this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004 Volume 04-7, pages 152 through 155. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department of Environmental Quality (DEQ) states that this rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows:

- 1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.
- 2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.
- 3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c)

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and 40 CFR Section 124.18.

4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, DEQ will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23.

The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact the undersigned.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective May 21, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking to promulgate a final rule. This action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, exclude Hazardous Waste Management Act (HWMA) permit appeals, which are governed instead by Section 013 of the Rules and Standards for Hazardous Waste, IDAPA 58.01.05, and 40 CFR 124.19. In May 2000 the Environmental Protection Agency revised 40 CFR 124.19. Those revisions caused the procedures for hearings and administrative appeals to be inconsistent with the procedures for contested cases set out in the Idaho Administrative Procedure Act (APA) by eliminating

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the opportunity for an evidentiary hearing and limiting appeals to record review. Recent case law from the Idaho Supreme Court has made it clear that agencies must afford persons the procedural protection of the APA contested case provisions which include the right to present evidence and examine witnesses where appropriate.

This rulemaking is being undertaken to remove the exclusion of HWMA permit appeals from the definition of “contested case” so that those procedures will be consistent with the Idaho APA. This rule change will streamline the procedures of the Department of Environmental Quality (DEQ) by eliminating the alternative procedures, making the rules and procedures for all permit appeals consistent within DEQ. Any citizen of the state of Idaho and/or regulated industry appealing a HWMA permit action of DEQ to the Board of Environmental Quality (Board) or having a direct and substantial interest in a proceeding filed with the Board may be interested in participating in this rulemaking.

With this rule change, it is necessary to revise the Rules and Standards for Hazardous Waste, IDAPA 58.01.05, to remove the incorporation by reference of 40 CFR 124.19.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department states that this proposed rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This proposed rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows: 1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18. 4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, the

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Department will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23. The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary because the rule confers a benefit. This rulemaking will provide greater procedural rights to parties involved in an administrative appeal concerning a HWMA permit action of DEQ by providing an opportunity to present evidence and examine witnesses, as well as other procedural protections.

NEGOTIATED RULEMAKING: The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 7, 2004, Volume 04-4, page 27. No members of the public attended the scheduled meeting.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE, SCOPE, AND APPLICABILITY.

01. Title. These rules are shall be cited as IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

02. Scope. These rules establish general standards for contested case proceedings, petitions for rulemaking, and declaratory ruling proceedings, and rulemaking procedures as required by law. (3-15-02)

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03. Applicability Of Contested Case Provisions. Section 39-107, Idaho Code, provides the opportunity to initiate a contested case proceeding. It provides that any person aggrieved by an action or inaction of the Department shall be afforded an opportunity for a fair hearing upon a request therefore in writing pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such proceedings, except for ~~the following:~~ (3-15-02)

~~**a. Hazardous Waste Permit Program Procedures for Decision Making.** The procedure for decision making regarding all hazardous waste permits, including all hearings and administrative appeals, shall be governed by Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.05, Section 013, "Rules and Standards for Hazardous Waste". (3-15-02)~~

~~**b. Personnel Grievances and Employment Related Actions.** Personnel grievances and employment related actions. These are governed by IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," and the DEQ Personnel Policies and Procedures Manual. (3-15-02)(5-21-04)T~~

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS.

01. Aggrieved Person Or Person Aggrieved. Any person or entity with legal standing to challenge an action or inaction of the Department, including but not limited to permit holders and applicants for permits challenging Department permitting actions. (3-15-02)

02. Board. The Idaho Board of Environmental Quality. (3-15-02)

03. Contested Case. A proceeding resulting in an order, in which the legal rights, duties, licenses, privileges, immunities, or other legal interests of one (1) or more specific persons are required by law to be determined by the Board after an opportunity for a hearing. Contested case does not include rulemaking or Personnel grievances and employment related actions, ~~or proceedings pursuant to the hazardous waste permit program governed by the Rules of the Department of Environmental Quality, IDAPA 58.01.05, "Rules and Standards for Hazardous Waste". (3-15-02)(5-21-04)T~~

04. Declaratory Ruling. An interpretation by the Board, rendered pursuant to Section 67- 5232, Idaho Code, as to the applicability of any statute, order, or rule of the Board to a person's circumstances. (3-15-02)

05. Department Or DEQ. The Idaho Department of Environmental Quality. (3-15-02)

06. Director. The Director of the Department of Environmental Quality. (3-15-02)

07. Hearing Coordinator. The Person who coordinates, schedules, issues notices, and

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administers actions governed by these rules on behalf of the presiding officer. The hearing coordinator assigns a permanent docket number to each action for purposes of identification and acts as custodian of records for all information and documentation involving actions governed by these rules. The hearing coordinator's mailing address and phone number is: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0418, FAX (208)373-0481. (3-15-02)

08. Hearing Officer. A Person appointed or designated by the Board, who presides over actions governed by these rules and who may act as the presiding officer. The hearing officer cannot be an employee of the Department. (3-15-02)

09. Idaho Administrative Bulletin. The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (3-15-02)

10. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3-15-02)

11. Party. Each person or agency named or admitted as a party. A party to a contested case shall be one (1) of the following: (3-15-02)

a. Petitioner. Any person aggrieved by an action or inaction of the Department who files, in accordance with these rules and Section 39-107, Idaho Code, a written petition for a determination of or appeal of his rights, duties, licenses or interests and any person who files a petition for a declaratory ruling or petition to initiate rulemaking. (3-15-02)

b. Respondent. Any person who responds to a petition filed in accordance with these rules. (3-15-02)

c. Intervenor. Any person, other than the petitioner or respondent, who is permitted to participate as a party pursuant to Sections 350 through 354. (3-15-02)

12. Person. Any individual, partnership, corporation, association, governmental subdivision, department, agency or instrumentality, or public and private organization or entity of any character. (3-15-02)

13. Petition. Pleadings initiating a contested case, rulemaking, or declaratory ruling, or to intervene filed in accordance with these rules. (3-15-02)

14. Pleadings. All documents filed by any party in a contested case proceeding. (3-15-02)

15. Presiding Officer(s). One (1) or more members of the Board or a duly appointed hearing officer. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one (1) of them to be the presiding officer. (3-15-02)